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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Eternal God, thank You for life's blessings that You give us from Your open hand and heart. Lord, You have blessed us with the Sun, the stars, the wind, the rain, the sea, the sky, the fields and forests. All of these gifts we too often take for granted.

Thank You for the Members of this legislative body and the many other workers who serve You faithfully away from the spotlight. Empower them to meet the challenges of our times with Your providential power. Strengthen them to perform faithfully and well the work You have assigned their hands to do.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 7, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the Wall Street reform bill. There will be no rollcall votes today or on Monday or on next Friday. The following Monday, we will take a look at that. That is now scheduled as a no-vote day. We may not be able to do that. Other things have come up, not the least of which is a conversation with Secretary Gates yesterday about the supplemental war funding bill.

We are going to do our utmost to finish the bill we are on now next week. We have today and all day Monday for people to work on amendments, and we would hope we can make some progress in that regard. Yesterday, there were a few difficult spots, but late in the evening we were able to get the Senate back on track. We had some important legislation done last night.

I repeat what I said last night: There doesn't need to be long periods of time for debating most of these issues. We have all studied them. This bill has been in the public eye for a long time. SHERROD BROWN had a controversial, important amendment. I supported that amendment. But he spoke for 5 minutes. The opposition spoke for 5 minutes. Everyone understood what they were doing. It was a good vote. I use that as an example. We can move through this stuff much more rapidly.

We want to make sure Senators have opportunities to offer amendments. As I said yesterday, there are lots of amendments. A lot of them are in the same area. We need to focus on these. Senator DURBIN has six amendments. He is going to offer one of his amendments. That is an example for all of us to follow.

Again, we ended the day on a good note. I believe that is important. We have already lined up some things to do when we begin legislative session on Tuesday, but on Monday, the two managers will be ready to do business on work they are doing. A number of these things can be worked out. The two people managing the banking part of this bill are longtime legislators. They have handled many bills on the Senate floor. They will accept a lot of these amendments.

The derivatives part of this bill is, by some standards, a little more complicated, but even there the issues are fairly clear. Senators LINCOLN and CHAMBLISS are ready to work with Senators who have ideas as to how, if at all, they want to change the legislation. They are also ready for business.

I hope people understand the urgency of our agenda. We have many things to do and a very short period of time to do them.

RESERVATION OF LEADER TIME

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

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of S. 3217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail,'' to

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

protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Sanders/Dodd modified amendment No. 3738 (to amendment No. 3739), to require the nonpartisan Government Accountability Office to conduct an independent audit of the Board of Governors of the Federal Reserve System that does not interfere with monetary policy, to let the American people know the names of the recipients of over $2 trillion in taxpayer assistance from the Federal Reserve System.

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

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

UNANIMOUS-CONSENT REQUEST—H.R. 4899

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4899, FEMA supplemental, the Federal Emergency Management Agency, which legislation is at the desk; that the only amendment in order to the bill be a Reid amendment regarding settlement of lawsuits against the Federal Government and emergency disaster assistance; that the amendment be considered and agreed to; the bill, as amended, be read a third time, passed, and the motion to reconsider be laid on the table; and that any statements related to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Tennessee.

Mr. CORKER. Mr. President, I rise to speak on the bill before us. I know JOHN MCCAIN from Arizona has filed an amendment on Fannie and Freddie, or GSEs, as we call them. I wish to speak on that amendment.

I know I have worked with our Presiding Officer on big pieces of this bill. I very much appreciate the spirit with which we have worked on this bill.

All of us know there are pieces of this legislation that are very appropriate. Certainly, the orderly liquidation title that the Presiding Officer, myself, Senator DODD, Senator SHELBY, and so many others have been involved in is an important piece of this legislation. All of us realize secondarily that the derivatives title, once it gets corrected and is in the right form, is a very important piece of trying to deal with what we as a country have dealt with over these last couple of years. Certainly, some elements of consumer protection are very important. I hope we are able to get that back in balance.

I believe, as with any piece of legislation we pass here, sometimes we take a crisis and use it to cause things to happen that don't necessarily have to do with the crisis itself. I certainly believe that is the case with some of the expanse as it relates to consumer protection. But the fact is, I think the orderly liquidation title is something that is a useful tool. Hopefully, we will get the derivatives title right, and we will no longer have a situation where people are hugely money bad and don't settle up on a daily basis and end up with the kind of situation we are all so familiar with as it relates to AIG.

There are still three areas we have not dealt with that are very important. One of them is underwriting. I hope the Presiding Officer and others will be able to work together and come up with an appropriate underwriting title. At the base and the core of this whole crisis, the fact is, what generated this worldwide crisis was the fact that a bunch of bad loans were written that should have never been written. This bill does nothing whatsoever—zero—to deal with loan underwriting. To me, that is a huge oversight. I am hoping that the Senator from Connecticut, the Senator from Virginia, and the Senator from Alabama—many of us will figure out a way to deal with it in an appropriate way.

I have an amendment. It is an approach. I am hoping, over the course of the next week and a half, we will figure out a way to deal with the core issue of this last crisis, which is, no doubt, we wrote a bunch of loans—our country did—mortgages were extended to people who could not pay them back.

Second, credit ratings. The fact is, the credit rating agencies were at the core of this. I know the bill attempts to deal with credit rating agencies by virtue of a pleading standard, making it so they are more liable for some of the recommendations they put forth. It is my sense what is going to happen, by addressing it that way, is the smaller firms that are just entering the market—that would like to be constructive as it relates to credit ratings—basically are going to be pushed out of the market, and the larger firms will be more consolidated or have a bigger piece of the business because they will be able to withstand some of the litigation that will take place, hopefully, if they make bad recommendations.

But I think there are probably some other ways of looking at this. I know there are people in this body on both sides of the aisle who constructively are trying to figure out a way to deal with that.

But the one glaring, glaring, glaring piece is Fannie and Freddie. I think one of the reasons we, as a body, have not dealt with Fannie and Freddie is they are huge, they are a big part of the market, the housing industry is very dependent upon them, and there has not been a consolidation around what most works to move them away from being such a big piece of the market and such a huge liability for our country.

That is why I so much like the amendment JOHN MCCAIN from Arizona has put forth. I know he has worked with JUDD GREGG and others. But what is outstanding about his amendment is—there are two things. No. 1, the fact is, we actually have to be honest with the American people about the cost, the liabilities we are picking up as it relates to the GSEs. Each year, for budgetary reasons, we will have to allocate moneys for the actual liabilities that exist. I think that is a good thing. I think that is a very important step. There will be some transparency into what those organizations are actually costing our country. I think all of us realize Fannie and Freddie are a huge problem and we need to deal with it.

The second piece of the McCain amendment I like so much is it puts in place a date certain, a certain time by which we, as a body, have to have dealt with them. One of the things I worry about—again, it is pretty hard to believe we have not thoughtfully figured out a way to deal with the GSEs at the time of passage right now. What I worry about is this bill passes and we move on to other topics and still have these huge issues that our country needs to deal with that we know are out of control, that have done incredibly terrible jobs in underwriting and basically have missions that counter each other. The fact is, it has a social mission, it has a business mission. We have tried to put those together, and it has not worked. We all know we have to deal with that in a different way.

What the McCain amendment would do is ensure that we deal with it. Sometimes, again, we move beyond a crisis, we start thinking about other things, and then we have these festering problems that have not been dealt with.

So let me say this. I am being pretty honest right here on the floor. I realize none of us yet have come up with a silver bullet answer on what to do exactly with the GSEs. How do we move them into the private market without totally disrupting what is happening right now, with them being such a huge part of what is happening?

The McCain amendment would just make sure, by a date certain, we deal with it, and we can do so incrementally. I know some people on the other side of the aisle might take the McCain amendment as a major criticism. I do not. I just look at it as a way for us to move ahead.

So I hope my friends on the other side of the aisle will actually look at the substance. I think it is thoughtful. I truly do. I think it is something that allows us to start accounting for it. But then, within a certain period of time, within the next couple of years, we will have had to deal with Fannie and Freddie or some draconian things will occur, no doubt.

I hope the Senator from Virginia, the Senators from Connecticut, Missouri,

and New Mexico, who are in this body today—I hope we can move beyond any partisan thinking. I will say, I think this body has done very well over the last week and a half. It is a complex piece of legislation. I think the Senator from Connecticut has tried to deal with this in a very good way on the floor.

As a matter of fact, we had a vote last night that I think a lot of us were concerned about, and instead of somebody raising an objection and trying to get us to a 60-vote threshold, we had a 51-vote threshold. I thought that was the best of this body last night, and I wish to thank those in charge of escorting this bill through the process for keeping it that way. There could have been a motion to table. Somebody could have asked for a 60-vote threshold.

I know the Senator from Missouri is going to speak next. She has been concerned about the process this year, and I join her in many of those concerns. But so far this process has been about the best I have seen in some time.

So as I move back to the McCain amendment, I know it is being offered by a Republican. I do not offer criticisms toward either side of the aisle for what has happened with the GSEs. Let's face it, in fairness, both sides of the aisle have had a hand in these things being where they are. Administrations on both sides of the aisle have used these GSEs toward ends. There is no question. I am not trying to weigh which side is most responsible. But the McCain amendment allows us to move ahead in a thoughtful way with these organizations.

So I will stop. I do urge my friends to please read the legislation. Maybe there is a second degree that is in order to make it even better. But I do believe it is a way for us to responsibly move ahead and deal with Fannie and Freddie. They cannot continue to exist as they are. Everybody in this body knows that. The American people know that. Let's deal with it. Let's pass the McCain amendment. Let's pass the McCain amendment with a tweak or two, if that is necessary. But let's show the American people we know it is a problem and we have the ability to work across party lines to be able to do so.

I yield the floor, and I thank all of you for listening.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

UNANIMOUS-CONSENT REQUESTS—EXECUTIVE CALENDAR

Mrs. MCCASKILL. Mr. President, I rise this morning in the cause of common sense in how the Senate works. We have had so many delays on nominations this year. Just as a quick review of where we stand, we have had over 51 rollcall votes on President Obama's nominations to serve in government under his Presidency. Of those 51 votes, over 80 percent of them were confirmed by overwhelming margins. Yet they sat on the calendar for more than 3 months, on average—overwhelming support, sitting on the calendar for 3 months, on average.

Just for some comparison, at the similar point in the Bush administration, there were eight nominees on the calendar. Right now, we have 107 nominees on the calendar. As I look at the list, I am confused because, as to most of the people on the list, we do not know why they are sitting there. We do not even know who is making them sit there. Enter stage left the anonymous hold—or as I like to call it: Nobody can blame me because they don't know who I am.

There is a law we passed that has a rule in it—very plain language, very easy to understand—that once a Senator makes a unanimous consent request to confirm a nominee, then you have to come out in the sunlight. After 6 session days, after those requests are made in terms of a unanimous consent for their confirmation, then the rule says you must notify your party leader of your hold that you have on the nomination, and it has to be published in the CONGRESSIONAL RECORD.

So last week I came to the floor and made 74 unanimous consent requests on nominations. Who were those 74? This is the amazing part. This is very amazing. Not one of the nominations I made a unanimous consent request on last week had any opposition in committee—none—not a voice vote ''no.'' No one spoke out and said: I have a problem. They flew out of committee—all 74 of them. But no one knows why they are sitting there or who has put a hold on them.

I made the request, and in the intervening week we have had a lot of activity in that regard. The first thing that happened is, my friend from Oklahoma followed the rule. He notified his party leader of the holds he had, and it was published in the CONGRESSIONAL RECORD. He has a great habit of reading what we are doing around here. When he read the rule, it was obvious to him the rule said, once the request had been made, you say who your holds are. He has never been afraid, my friend from Oklahoma. He has never been afraid to take accountability. I have seen him with great courage enrage this entire room because he had some principles he was standing on. He is a great role model in that regard—his principled stands; and he owns them. That is all we are talking about. We are talking about owning them.

Nobody in America gets why this stuff has to be secret. I know he has an amendment he wants to offer on secret spending, and I would like, on the record, to say I would like to join him in that amendment. The secret spending that goes on through the hotline process, he is absolutely right—publishing this stuff for 72 hours. He is absolutely right.

But this practice is absolutely wrong. Unlike his other colleagues, he stepped out of the dark and into the sunshine. But no one else did.

So now, a week later, we still have 53 of those 74 names for which we have no idea who is holding them or why. Some of them have been confirmed of the 74 since then—a few. I think the Senator from Oklahoma identified a hold on, I believe, six or seven. So now we still have 53 names for which no one knows who is holding them by people who are avoiding the rule.

I had somebody come up to me the other day and say: Well, there is no enforcement. I said: Who would have thought you would have to make it a misdemeanor for a Senator to identify their hold? They voted for the bill. The vote was 96 to 2, so they voted for it. They just do not want to live by it.

Today, I come back to the floor with my colleagues—and there will be a number of us here—to once again try to trigger the rule. The unanimous consent requests will be made. Today, we have 69 names—the 53 from last week that are still out in the dark somewhere—we do not know who is holding them or why—and additional names that have been added to the calendar since then.

Mr. President, 64 of the 69 nominees we will make a motion on today—64 of the 69 nominees—had no opposition in committee—none. As we will hear over the next hour or so, these are important jobs: National Traffic Safety Board, the inspector general for the EPA. Can you imagine right now not having an inspector general of the EPA with what is going on in the gulf?

The other good news—let me just briefly talk about this. I am going to yield to my colleague from New Mexico. We have a letter going around, and the letter is very simple. Everyone who signs the letter is taking a pledge—a public pledge—that they will never again participate in a secret hold; and, further, they support abolishing secret holds. If you want to hold somebody, you have to put your name on it.

I am very proud of the fact we now have 59 signatures on that letter, both Republicans—a Republican so far, 2 Independents, and all the Democratic Senators, except 1. I am optimistic we will get the last remaining Democratic Senator, Mr. BYRD, since he cosponsored a resolution in 2003, along with Senator WYDEN and Senator GRASSLEY, who have done yeoman's work on this issue for years. Senator Lott and Senator BYRD, along with Senator GRASSLEY and Senator WYDEN, sponsored a resolution back in 2003 to try to end secret holds, and here we are 7 years later with 53 nominees in the dark after the rule has been triggered.

So I am optimistic. I certainly am hopeful we will have a lot more Republicans sign on the letter. I think we may. The iceberg is moving. We may actually bust up this thing. I am wildly optimistic—which is an unusual thing around here—about reform. It is hard to change the traditions of the Senate, especially when they are bad habits. Once again, my colleague from Oklahoma and I share the same view on earmarks and have tried from a principled

position to not participate in those. I think that is also a bad habit. Clearly, we have a lot more people agreeing with us on secret holds than we do on earmarks.

I look forward to making these motions today. I look forward to the Senators reading the rule, understanding the plain language, acknowledging they voted for it, and putting their name on these secret holds. Hold a nominee. The Senator from Oklahoma is holding some nominees. He has the right to do that. But the people we work for have the right to know why and who he is. That is all we are asking for today. We are not asking anybody to give up their holds; we are only asking people to identify who they are, to come into the sunshine for the transparency we all want to have as we serve the great people of this Nation.

With that, for the unanimous consent requests, I will yield to my colleague from New Mexico, Senator UDALL.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I know our Presiding Officer today is also going to come forward, and we hope to see him down on the floor. I thank Senator MCCASKILL very much for her organizational efforts, hers and Senator WARNER's, and for working on this issue. This is a very serious issue for the Senate in terms of how we move forward on the rules. I kind of liken it—and I have some history here, and I know everybody has their history when it comes to administrations.

We have this administration elected a little over a year and a half ago, trying to put their people in place. They are trying to put people in place to run, for example—I am going to be talking about the Tennessee Valley Authority and talking about the EEOC, the Equal Employment Opportunity Commission. They are trying to put their people in place to run these agencies and to get the government to work. Sometimes in the past—and my father passed recently, but he used to visit with me about the way they used to do it in the old days. In the old days you got to put your people into place within the first couple of weeks of an administration. I remember my father telling me he took over as Secretary of the Interior in January. Within 2 weeks, he had all of his Presidential appointees in place. He had his team in place. He could start carrying out the responsibilities that had been given him by the President. My understanding is for most of the Cabinet members in President Kennedy's Cabinet, the same thing was true. Within a couple of weeks you had your team in place and you could go out and try to do the things your President had campaigned on.

We are seeing a striking difference between those days back in the 1960s and what happens today. We are seeing incredible obstruction in terms of trying to move forward. It is done through this process, as Senator MCCASKILL has brought out, of secret holds.

Since the Obama administration—I saw a figure at the end of the first year—they only had 55 percent of their team in place; 55 percent of their team. What we are talking about is holding up the ability of the President to have his team in place and do his job. I think that is unacceptable. I think one of the areas that is the worst when it comes to this is the hold process, the secret holds.

What is a secret hold? Everybody asks about these secret holds. This means a Senator is able to put a hold on a nomination and not come out in public. We all know that the very best thing is to shine light on the process. I think one of our Supreme Court Justices said it the best: Sunshine is the best disinfectant. With the secret holds, there is no sunshine. As many of us have pointed out on the floor, we want to bring sunshine to this process.

I wish to congratulate Senator COBURN for being the only Senator to step forward in this week-long process of trying to bring people out into the public. I understand Senator MCCASKILL's reading of this statute and my reading of this statute is if you have not come forward at this point on this large number of nominees for which unanimous consent has been asked, and there has been an objection, you are in violation of the law. You are in violation of the law. Only Senator COBURN has stepped forward to say I am holding up—I believe he is holding up the Broadcasting Board of Governors. He is holding up six people on the Broadcasting Board of Governors.

Today I am going to try to move—and we are doing this, I say to Senator COBURN, in a bipartisan way. We are not picking just Democrats. We are talking about the EEOC and the Tennessee Valley Authority, and we are moving forward with both Democrats and Republicans. That is why I am doing an en bloc request at this point so we can get both Democrats and Republicans in place.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar Nos.—and this is important, the EEOC—616, Jacqueline A. Berrien, to be a member of the Equal Employment Opportunity Commission; 617, Chai Rachel Feldblum; 619, Victoria Lipnic, to be a member of the EEOC for the remainder of the term expiring July 1, 2010; and 620, Victoria Lipnic to be a member of the Equal Employment Opportunity Commission; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. Mr. President, reserving the right to object, I wish to make an inquiry of the Chair as to the interpretation of the rule we passed, because it is my understanding that the rule doesn't require you to publish, but it does say the majority and minority leader are no longer obligated to honor your request for a hold if you have not.

I ask for the Chair's opinion on that.

The ACTING PRESIDENT pro tempore. The law being section 512, Notice of Objecting to Proceeding.

In General. The Majority and Minority Leaders of the Senate or their designees shall recognize a motion of intent of a Senator who is a member of their caucus to object to proceeding to a measure or matter only if the Senator—

let me read both of these; I will try to paraphrase:

Following the objection to a unanimous consent to proceeding to, and/or passage of a measure or matter on their behalf, submits the notice of intent in writing to the appropriate leader or their designee; and paragraph 2, not later than 6 session days after the submission under paragraph (1), submits for inclusion in the CONGRESSIONAL RECORD and in the applicable calendar section described in subsection (b) the following notice—and files a notice of intent.

Mr. COBURN. OK. I will take that reading of the law as an assumption that agrees with the position I put out there.

I would say—if the Chair would give me some time in consideration of my reserving the right to object—I served in the majority for 2 years prior to the Senators who are here on the floor today, and I understand the frustration. I have been there. I was on the other side. It is difficult. In terms of numbers, we have more of President Obama's nominees cleared than President Bush's nominees at the same point in time.

I wish to raise the question. I am going to comply. First, I don't have any problem explaining why I hold somebody. The BBG nominees: The BBG is in such a mess, I want to make sure I visit with every nominee before I give them a clearance to get on that board, because we are wasting three-quarters of a billion dollars there and not doing anything positive for our country as we spend that money.

There are a lot of reasons why we hold people. One of the dangers of coming forward, from my experience as a Senator myself, of putting a hold on and then putting it out there, is this: If I want to do further work or study or have a question, the assumption with a hold is that you don't want them to move, and that may not be the case at all. The reason for a hold oftentimes is I want to look at the history, I want to look at the background, and I want to take the time to meet the individual myself. That fulfills the true obligation of advise and consent.

I would also say we were frustrated when we were in the majority the same way, and we played the same kind of parlance, except with our own nominees. When somebody on our side had a

hold, we didn't ever mention that. We didn't ever complain about that. We just complained when the other side did. So the perspective has to be—understanding the frustration; the President deserves advice and consent—but I also know there are 150 nominees right now sitting in committee who haven't been cleared in committee and we are a year and a half, a year and 4 months into this administration. It is not just that.

I intend to object to every one of these, not because I personally have an objection, and I want my colleagues to know that, but one of the considerations of courtesy on the Senate floor is if somebody else does, you will honor that.

The final point I will make is that the majority and minority leader usually work these things out. I think we passed 28 in the last few weeks, probably because of some of the good effort of my colleagues on the other side of the aisle to apply the pressure and heat. But I plan to object to every one of these because there are those on our side who have a problem with the individual. But I don't disagree that you ought to have the courage to stand up and say who you are holding and why you are holding them. I don't disagree with that. But that isn't our case right now and that isn't the case of the law, as I understand it; it just removes the obligation.

So on that basis I will object to this first package and plan on objecting to every other one in forbearance and as a courtesy to those on my side of the aisle who have a problem with these nominees.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I am confused. This law was passed in the most bipartisan way possible: 96 to 2. Are we going to pretend this law doesn't say what it says?

Let me make sure I put in the RECORD what it says:

> The majority and minority leaders of the Senate or their designees shall recognize a notice of intent of a Senator who is a member of their caucus to object to a proceeding or a measure only if the Senator—
>
> (1) following the objection to a unanimous consent proceeding submits the notice of intent in writing to the appropriate leader or their designee; and
>
> (2) not later than 6 session days after the submission under paragraph (1), submits for inclusion in the Congressional Record and in the applicable calendar section described in subsection (b) the following notice:
>
> I, Senator _____ intend to object to proceedings to _____ dated _____ for the following reasons _____ .

It says the majority and minority leader can recognize a hold only if the Senator first submits the notice of intent in writing after the unanimous consent request is made, and submits it to the CONGRESSIONAL RECORD.

We are going to try to slice and dice the plain language of this about something as obvious and commonsensical as owning your hold? I know the Senator from Oklahoma doesn't agree with that. He has just said so. He is not doing this. I know he is here as a courtesy to his fellow Members. But with all due respect, it is 107 to 8 on the Executive Calendar.

That is how many were on the calendar in the Bush administration at the same time—eight. There are 107 on the Executive Calendar in this administration. Honestly, we can do this forever. We can say when we were in the majority, we didn't do this and you did it; and when we were in the minority, we didn't do this and you did.

We have a chance to stop it. We had 96 votes to stop it. Are we now going to stand on some kind of notion that the law doesn't say what the law says? I know part of the amendment of the Senator from Oklahoma is that he wants Senators to sign in writing that they have read what they are passing and that they understand the impact. I will be honest; I am going to cosponsor that, if he will let me, because I agree with the premise of it, although it is a little paternalistic to make Senators sign something saying they understand the impact.

Does anybody believe Senators don't understand the impact of this language? Are we going to stand on some kind of formality that we don't have a way to enforce it. I guess the position the Senator is taking on behalf of the Republican caucus is that the law doesn't say what the law says.

I have had a briefing this week on the standing rule versus the rule versus the law. That is what drives America crazy about this place. The secret hold is wrong. The Senator from Oklahoma knows it, and I guarantee you most of his colleagues do. You would be amazed how many Republicans have come up to me this week and said, ''I don't do it, Claire.''

I ask the Senator from Oklahoma to join our letter since he doesn't do it either. He has courage. He has guts. He is accountable to the people who voted for him. But to stand on behalf of the Republican caucus on some notion that this doesn't say what it says—that is all we are sent here to do, honestly. Believe me, I know the stuff that goes on here—the equal opportunities—and the Democrats are doing some of this in the majority. But we cleared all the secret holds this week. We had a few—the Democrats had a few—and we cleared them all. I had a couple Democrats come up to me complaining: ''I can't believe you made me give up my hold.'' They were not happy about it. We had some reluctant signatures on the letter.

Do you know what is nice about the letter? I think this is important for the Senator from Oklahoma to understand. It doesn't say we are giving up secret holds for this administration. A lot of my friends on the other side of the aisle have a spring in their step now and think my party is on the ropes and there is a chance that, come next year at this time, Senator MCCONNELL will be the majority leader or that Congressman BOEHNER will be the Speaker. Do you know what. All the names on this letter did not say ''while we are in charge.'' It says ''forever.'' We now have 58 members of this caucus—56 and 2 Independents who caucus with us—and 1 Republican so far who say it is forever; as long as we are Senators, we are not going to do secret holds.

Frankly, my friend from Oklahoma doesn't have to worry next year about secret holds from this side of the aisle. I am proud we have done that. There may be a nomination a future President makes that is a Republican, and if the people of Missouri are good and kind enough to hire me again, I may not like it. But I guarantee I will have the guts to say so.

Mr. President, I wanted to clarify the plain reading of the law and, obviously, what its intent was. I don't think anybody with a straight face can argue what the intent was. It was to stop this stuff. We can either ignore the intent and stand on a slicing and dicing and parsing of the language and reassure the American people that we completely don't get it or we can have people come out of the shadows on these holds.

I appreciate the Senator from New Mexico for allowing me to respond.

Mr. UDALL of New Mexico. Mr. President, now we have seen demonstrated, I think dramatically, what the process is here. We tried to move on a bipartisan basis for the EEOC to put Democrats and Republicans in that important government agency, an agency that focuses on discrimination. If the people are not in place, it cannot move forward with that very important goal. Our friend on the other side of the aisle, Senator COBURN, has objected to putting Democrats and Republicans in that agency so it can move forward.

I am going to try to move forward, also in a bipartisan way, on the Tennessee Valley Authority. Many people may not know, but in the Tennessee Valley, the power is provided by an agency called the Tennessee Valley Authority. Everybody knows how important power is to the economy. When we look around the world, we see communities being stifled because they have blackouts and brownouts and they don't have the available power. The Tennessee Valley Authority has a number of members who need to be appointed to the board of directors. We are moving today—both Democrats and Republicans—to try to bring home the point that we need to get this board of governors in place.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar Nos. 740, Maryland A. Brown; 741, William B. Sansom; 742, Neil G. McBride; and 743, Barbara Short Haskew, all to be members of the board of directors of the Tennessee Valley Authority; that the nominations be confirmed en bloc, the motions

to reconsider be considered made and laid upon the table en bloc; no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Mr. President, moving forward with some individual nominees for President Obama to put in place people at the Department of Commerce, at the Health and Human Services Department, at the Treasury Department, at the State Department, and at the Energy Department—all very important government agencies. All President Obama wants is to have his team in place so they can start doing their work. But what we are seeing on the other side over and again is secret holds and delay.

It is important to remind everybody that at this particular point in time 107 nominees of the executive branch are being held up. At this point in time in the past for President Bush, only 8 nominees were being held. So 107 are being held for President Obama, and for President Bush, there were only 8. You can only think and draw the conclusion that this is about preventing the President from getting his team in place, which is obviously a very important function.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 640, Eric Hirschhorn, to be Under Secretary of Commerce for the Export Administration; that the nomination be confirmed; that the motions to reconsider be considered made and laid upon the table; that no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD, as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Mr. President, now proceeding with an important nomination for Health and Human Services, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 647, Jim Esquea, to be an Assistant Secretary of Health and Human Services; that the nomination be confirmed; that the motions to reconsider be made and laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Mr. President, I will proceed with another important position in the Department of the Treasury. We all know the Department of the Treasury supervises everything that is out there in terms of our economy—a very important position.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 652, Michael Mundaca, to be an Assistant Secretary of the Treasury; that the nomination be confirmed; that the motions to reconsider be considered made and laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Mr. President, here is another important nomination at the Department of State.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 722, Judith Ann Stewart Stock, to be an Assistant Secretary of State; that the nomination be confirmed; that the motions to reconsider be considered made and laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. Reserving the right to object, Mr. President, I want to make it known that I am carrying on a Senate courtesy on my side of the aisle, and these are not necessarily my objections, but they are on behalf of my colleagues. I object.

Mr. UDALL of New Mexico. Mr. President, I say to Senator COBURN that we very much understand that he is doing this for others. We want them to step forward. We want to get rid of these secret holds, as the Senator from Oklahoma has stepped forward on the broadcasting board. He has said he is holding up six people to go on that board of governors. It is out there in public, and it is something that all of us can examine and the media can examine. We can figure out whether his objections are legitimate. But that is the process. That is what is going on—secretly delaying the administration from getting its team in place.

Let's admit what is going on here. The folks who are putting on these holds do not want to see the President have his team in place. If he doesn't have his team in place, I think the expectation is that they think he would not be able to do the job.

Once again, the President nominated somebody important to work with Secretary Chu at the Department of Energy.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 726, Patricia A. Hoffman, to be an Assistant Secretary of Energy; that the nomination be confirmed; that the motions to reconsider be considered made and laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Once again, they are being held up through secret holds, and Senator COBURN has said he is doing this on behalf of Members on his side—not allowing all of these people to get into the government and do the job. We are talking about important government agencies, such as the Department of Commerce, Health and Human Services, Secretary of the Treasury, Secretary of State, Secretary of Energy—all objected to today.

Many of these nominations have been pending for a while. There are very few objections in committee. This is something that is being put forward for the purpose of delay.

Mr. COBURN. Will the Senator yield for a moment?

Mr. UDALL of New Mexico. I am going to yield to the Senator from Minnesota.

Mr. COBURN. Will the Senator from Minnesota yield?

Ms. KLOBUCHAR. For a minute, sure.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I think the motives ascribed by the Senator from New Mexico are improper. I do not think it is so people can't get into a job to cause President Obama problems. I reject that motive.

With any administration, there is a very big difference of opinion. That is why we have elections. That is why things move like this in our country. It is about whether somebody objects to somebody's either philosophical bent or qualifications for a certain job.

I make the point again that at the same time under a Republican Congress, President Bush had fewer numbers approved than President Obama does at this time.

I hope we would not ascribe that motive. I want President Obama to have, in fact, the people he needs to have in place to effectively run our government. I will give the numbers again. To this date, President Obama has 596 of

his nominees confirmed. At the same time, President Bush had 570. In the two previous administrations, President Bill Clinton had 740 and President George H.W. Bush had 700.

I think what my colleagues are fighting for is fine. I agree with them. I am on the team as far as that is concerned. But I think we ought to be careful with the motives we ascribe. I really do not think it is to try to handcuff the administration. I think it is different. Of course, the sign that is being put up is about who is pending. I understand that. Let's be careful on the ascribing of motives. As I talk with my colleagues, I do not really find that motive. Even though they may not be out front with it as I have been, that does not mean they necessarily want the administration to not be effective.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Minnesota.

Senators need to be reminded that Senators may not yield the floor to one another. They must yield only for a question and through the Chair.

Ms. KLOBUCHAR. Mr. President, I thank you for the correction.

I appreciate my colleague's statement about his general support—I assume he meant for getting rid of secret holds, and he can correct me if I am wrong—his general support for changing this process and getting things done.

I will say that when we are in this time of economic challenge, no matter what the motives, I really do not care what is in the heads of my colleagues when they put on the holds. I do not even want to go there. What I care about is getting things done in the government when we have so many people unemployed, when we clearly have to move ahead and do more about small business and exports.

All I know is this: If we want to talk about the difference, at this point, 107 Obama nominees are on hold and being obstructed. At the same time—whether it was because not enough were nominated, I do not really care—at this same point, Bush nominees waiting for a vote—there were eight.

My bigger answer to this is, who cares about who did it or who did what when. What matters to me is that we move ahead and get going.

It is no surprise to me that the Senators who have taken the floor this morning and are surrounding me are Senators who want to see good government, Senators from open States with big blue skies, such as the State of New Mexico, Senator UDALL, who is now the Presiding Officer; or my State, the State of Minnesota, which has always been a leader in open government in moving things ahead; or Senator WARNER, who knows what it is like to manage a large State and knows you have to have your team in place if you want to get things done in the State of Virginia; or Senator MCCASKILL, who has been leading this effort from the Show-Me State, the State of Missouri—show me who is doing these holds.

The bigger issue is not just making sure we can run this government and getting the government moving and helping people again. The bigger issue for me is that things should not be done in secret. If you are going to put a hold on someone, we should know who and why you are doing it. I said the other day that this reminds me of an Olympic sport, a relay race, passing a baton from Senator to Senator so we cannot figure out who is holding the baton. They rotate who is putting on the holds, and they get around the rule. If delay were an Olympic sport, my colleagues would be getting a gold medal because there has been so much delay with these nominees, and it has to stop.

I want to give a few examples of the kinds of nominees we are talking about and the kinds of nominees we would like to see get confirmed. I want to give some examples of who these are, and I will then go through and make a request to confirm them.

We are right now in the middle of an oilspill of cataclysmic proportions in the gulf. I am going there this afternoon to see it. We are going to have a major hearing in our environmental committee on Tuesday. Do you know who is being held up right now? Michael Tillman, to be a member of the Marine Mammal Commission, is being held up; another guy, Daryl Boness, to be a member of the Marine Mammal Commission. Normally, one might not think this is the most important position in government. I say two things: One, we are dealing with marine issues right now, extreme marine issues of what is going to happen to our wildlife in the oceans. The second thing we are doing with this—why would anyone hold up members of the Marine Mammal Commission?

One guy I actually know—Mark Rosekind, to be a member of the National Transportation Safety Board. He does a good job. Like you, Mr. President, I am a member of the Commerce Committee. We know how important it is.

Earl Weener, to be a member of the National Transportation Safety Board. As we are dealing day-in and day-out with issues of threats to our transportation, the potential of airplanes that have gone down in the sky in the middle of Buffalo, and we have potential terrorist threats to our transportation system, what are we doing? We are holding up the nominees.

We have Toyota putting out cars that basically kill people across the country because the safety measures were not taken. They just paid the biggest fine in the history of this country. What are we doing? There are Members who are secretly holding up members of the National Transportation Safety Board. Why would we do that?

I will start with these.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 592, Mark Rosekind, and Calendar No. 787, Earl Weener, both to be members of the National Transportation Safety Board; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Again, this is a perfect example. We look at what happened with the Buffalo flight going down. We look at what happened with the Toyota cars. We look at what is going on across this country as we are focusing on terrorism and what happened in Times Square just recently. This is not the time to block nominees to the National Transportation Safety Board. Whatever the motives, whatever the reasons, at this point I do not care. I think the President should be able to have his team in place.

Next, I mentioned the Marine Mammal Commission, as we are dealing with an oilspill across the gulf.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 784, Michael F. Tillman, and Calendar No. 786, Daryl J. Boness, both to be members of the Marine Mammal Commission; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Very good. Again, marine mammals. We are dealing with animals that are almost certainly going to die because of this oilspill, and there are people on the other side of the aisle who have decided to block these nominations.

Next, Warren Miller, nominated to be the Director of the Office of Civilian Radioactive Waste Management at the Department of Energy. I don't know the reasons this hold was put on, why he is held up, but I do not believe any person in this country believes we should have no person directing the Office of Civilian Radioactive Waste Management.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 404, the nomination of Warren Miller; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order,

the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Next we go to Winslow Lorenzo Sargeant, to be Chief Counsel for Advocacy in the Small Business Administration. Mr. President, 64 percent of the jobs in this country are created by small businesses. Wall Street has been making record profits, but small businesses in this country are still suffering. Wall Street got a cold; Main Street got pneumonia. This is the time for a robust Small Business Administration.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 427, the nomination of Winslow Lorenzo Sargeant; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, the next one that is being held of these 107 nominations is Benjamin Tucker, to be Deputy Director for State, Local, and Tribal Affairs in the Office of National Drug Control Policy. As a former prosecutor—and I know you do, Mr. President, as a former attorney general—I understand the importance of having people in place to work on our national drug policy and to reduce the illegal drugs in this country.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 556, Benjamin Tucker; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Next, John Laub, to be Director of the National Institute of Justice.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 581, John Laub; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, the next of the 107 nominations being put on hold is P. David Lopez, Calendar No. 618, to be general counsel of the Equal Employment Opportunity Commission.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 618, P. David Lopez; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, the next one is Jill Long Thompson, to be a member of the Farm Credit Administration. Coming from an agricultural State, I understand how important it is to have people in place for the Farm Credit Administration, especially during this difficult time. Because of agencies such as the Farm Credit Administration, at least our rural areas have not gone off the cliff and have maintained some stability but are always challenged.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 628, Jill Long Thompson; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, next, James P. Lynch, to be Director of the Bureau of Justice Statistics. Again, as a former prosecutor, it is incredibly important that we have statistics on crime, that we know what is going on so we can develop the best policies and triage the cases so we can keep our neighborhoods safe.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 705, James P. Lynch; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. As a member of the Commerce Committee, again, I am very concerned that we still do not have a Deputy Administrator for the Federal Aviation Administration in place. As we know, there have been many recent incidents. We are trying to get the FAA reauthorization done to finally modernize our airports with NextGen so we can have the next generation of airport control, so we can better process our planes, so we can better land these planes, so we can have more safety, so we can have less congestion at our airports. This is very difficult to do when you don't have in place all of your managers who are supposed to be managing the Federal Aviation Administration. We have had incidents in Minnesota of a plane that overran the airport and ended up in Wisconsin. We have had planes that have been sitting on the tarmac for 6 hours with passengers without food and water.

We have had all kinds of issues with aviation, and yet—and yet—my colleagues on the other side of the aisle, while supportive at times of these efforts to modernize our air traffic control system, are blocking the nomination of the deputy administrator for the Federal Aviation Administration.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 782, Michael Peter Huerta; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, another job here that is unfilled—one of the 107 relating to maritime issues, and again we are dealing with an incredibly sensitive and catastrophic issue with this oilspill in our oceans—the Administrator of the Maritime Administration is being held by my colleagues on the other side of the aisle. I don't know what the motives are. Maybe they do not like this person. We don't know who is holding this. All I know is that a President has to get his team in place when he is dealing with an issue as catastrophic as this BP oilspill.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 783, David Matsuda; that the nomination be confirmed, the motions to reconsider be

considered made and laid upon the table, that no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Finally, Mr. President, we have Arthur Allen Elkins, who has been nominated to be the inspector general of the Environmental Protection Agency. Again, we are dealing with an environmental crisis down in the gulf coast area. Yet we can't even get this inspector general in place.

I know many of my colleagues on the other side of the aisle support having inspectors general in place so we can look at what is going on in government, so we can figure out what is happening and get things right. Yet this nomination is being held.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 794, Arthur Allen Elkins; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, I see the Presiding Officer has a smile on his face as he realizes I have reached the end of the nominees I am reporting on today. But I will tell you this: Having managed an office of 400 people—a government office, a local county attorney's office—I can't even imagine trying to run that place without having my top people in place and that kind of security.

It is very difficult to cut government spending, to make the kinds of decisions you need to make when you don't have your top team there to get the work done. Worse than that, with these secret holds, it is very hard to even understand why these people are being held, who is holding them. That is why we are working so hard to get rid of this.

As I said, this crop of Senators that has come here in the last 2 years does not like business as usual. We just want to get the business done.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first, let me thank my colleagues for being here this morning. I am pleased to join this effort. I want to particularly thank my colleague from Missouri, who has been a relentless voice on opening up and bringing a little sunshine to not only this issue but a lot of things that go on here that maybe make some of our colleagues a little uncomfortable, but she is constantly being that voice and pushing and prodding and trying to make sure we improve the process.

I also want to thank my colleague, the Senator from Oklahoma, who—as I think the Senator from Missouri said—we may not always agree with, but there are very few Members in this body who are more straightforward and honest about what they believe in and are more consistent, which probably frustrates some of us. But he is absolutely consistent in what he believes and he holds our feet to the fire. I commend him for bringing forward his holds and being willing to step up and explain them.

Like the Presiding Officer, I am a new guy here. But unlike so many of my colleagues, I have never been a legislator. I was a business guy for a number of years and I had the honor of serving as Governor. Quite honestly, I had a little TV in the Governor's office and whenever the legislature was in, I simply turned it off. So I don't fully appreciate, perhaps, all of the traditions of a legislative body. And I don't, by any means, know the history as well as my colleague from Missouri and my colleague from Oklahoma surrounding holds. But I did a little bit of research, and it seemed to me this ''holds'' notion came up as a courtesy in the last century because Senators had to travel a long distance to get to the body. They couldn't be here because they were traveling—on horseback—and it would take days or weeks. So somebody might say, as a courtesy, that we are going to set this aside or put a hold on somebody until the Senator can get here and explain himself or herself—I guess himself, at least at that time—in a fuller manner.

It seems to me that some of the traditions of this institution that were used on occasion—whether it is holds or filibusters or what have you—to keep this body functioning, are now being so overused that we seem to be institutionalizing dysfunction. I think the Senator from Oklahoma has made the case that neither side has clean hands, and whatever is up today may be down tomorrow.

One of the things I think the Senator from Missouri in her effort has done is to say: We are not saying we ought to change the rules for this moment in time. We want to change the rules forever. I can't explain to anybody in the Commonwealth of Virginia why in the 21st century we have something called a ''secret hold,'' where somebody can say: We don't like this guy or gal and we don't want them to be put forward, debated, and voted up or down for some secret, unknown reason.

I know my colleague, the Senator from Oklahoma, has said that most of the Members may have a legitimate reason—because they do not agree with the individual's philosophy or their background, and that is a very legitimate reason to raise—but I do know there has been at least—and I can't ascribe motives—a recent press report about an issue that brought some controversy here to the floor where a Member held one of the President's nominees not because the Member felt there was anything wrong with the nominee's qualifications but as a leverage matter, to try to encourage the administration to change a law with Canada on a totally unrelated matter. That, to me, seems like institutionalizing dysfunction and not—back to what I have at least been able to read about the history of holds—as a courtesy because folks can't get here and make their case in person. Even with our slightly dysfunctional airline system at this point, we can get here within a couple of days, absent storms.

So again commending my colleague from Oklahoma for stepping up on this one, where there is a problem with someone the President is putting forward—this President or any future President—we ought to acknowledge it, we ought to say what is wrong, we should have a spirited discussion, and then we should either vote the person up or down.

I am anxious to listen. If there is something wrong with some of these folks, let's vote them down and tell the President to put up somebody else. But 16 months into this administration—as a former business CEO and a former CEO of the Commonwealth of Virginia, I couldn't imagine having my folks languish in limbo in this kind of skull and crossbones kind of secret hold society stuff. It seems as if it was something that came out of the 18th or 19th century, where certain institutions of higher learning transported this idea of secret holds here to the floor of the Senate. It doesn't seem to make sense.

I am going to finish, because there are other colleagues, and the Senator from Oklahoma is going to have to rise a number of times because there are a lot of folks we have to go through, so I won't go on with this issue. But I am proud to be part of this effort with the Senator from Missouri, and I hope the Senator from Oklahoma will continue to raise issues—particularly around public spending—where I hope to find lots of places of common cause to join him. I appreciate his willingness to come forward. I sure as heck hope that more Members, on both sides of the aisle, will join this effort.

We can be respectful of the Senate and we can be respectful of its traditions, but it sure as heck seems to me that in the 21st century, the notion of secret holds ought to be one of those traditions that gets left behind. So in that spirit, I have two sets of nominations, both en bloc, since they are both Democrats and Republicans, to try to make the point that, in some small way, this is not about partisanship. It is about process.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar Nos. 589, Anthony Coscia; 590, Albert DiClemente; and 788, Jeffrey R. Moreland, all to be Directors of the Amtrak Board of Directors; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements related to the nominees be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar Nos. 500, Julia Reiskin, and 501, Gloria Valencia-Weber, both to be members of the Legal Services Corporation; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Once again, Mr. President, I appreciate the courtesy of the Senator from Oklahoma and the leadership of the Senator from Missouri. We are going to continue to raise this issue, and with the same kind of relentlessness the Senator from Oklahoma raises on public spending. I hope he continues making some progress. I look forward to joining him on some of his efforts, and I hope this list of now 59 Senators will include many Members from both sides. It seems to me to make good common sense.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. MCCASKILL. Mr. President, I listened to my colleague from Oklahoma, and I understand it is difficult to listen to any of us put motives on something when we don't know what the reason is, and ascribing motives is unfair when you don't know. But sometimes my experience as a mother pops up in my brain, and I think of my kids when they were little—and especially as they became teenagers—and I remember one time catching one of my kids. He had sneaked out of the house at night in the dark. I caught him and I said: You know, you are in big trouble, buster. He said: Well, mom, I wasn't doing anything wrong. We just walked around the block. We weren't doing anything you would get mad about. We weren't drinking, we weren't smoking, we weren't chasing down girls. We just walked around the block. I said: Well, you know, if you do it in the dark and you are not willing to tell me about it, then you know what I am going to assume? I am going to assume you are doing something sneaky and underhanded, and you just need to bank on that; that if you think you have to hide something from me, you have to assume I am going to think you are doing something wrong. If you are not willing to talk about it, you are not willing to own it, you are not willing to tell me about it, you are in trouble. End of discussion.

That is why we are ascribing motives. It is only logical to assume. After voting for a bill that clearly says once the unanimous consent motion is made you have to come out of the darkness, you have to explain what you are doing, the fact that these people are not coming forward—I have to tell you, if they were my kids, I would assume this—they are doing something they aren't proud of. I would assume that, if they were doing the sneaky, and that is what this is. This is sneaky, because they are not stepping up—like the Senator from Oklahoma has. Step up, own it, hold for as long as you like. Some of us may agree with your reasons and join you in your hold.

But there are literally names on this list where no one knows why they are being held. The White House does not know, the nominee does not know, maybe Leader MCCONNELL doesn't even know. It is nonsense. It is plain and simple nonsense.

My friend from Oklahoma is absolutely correct, we should not ascribe motives. But it is only human nature, if people are not looking at the plain language of the ethics bill they proudly voted for and doing what the plain language says you are supposed to do, people are going to start thinking something underhanded is happening. The only way to fix that is to step up.

Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 648, Michael W. Punke, of Montana, to be a Deputy United States Trade Representative, with the rank of Ambassador; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 649, Islam A. Siddiqui, of Virginia, to be Chief Agricultural Negotiator, Office of the United States Trade Representative; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 799, Carolyn Hessler Radelet, of the District of Columbia, to be Deputy Director of the Peace Corps; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 800, Elizabeth L. Littlefield, of the District of Columbia, to be president of the Overseas Private Investment Corporation; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 801, Lana Pollack, of Michigan, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 809, Bisa Williams, of New Jersey, 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 Niger; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 810, Raul Yzaguirre, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 811, Theodore Sedgwick, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 812, Robert Stephen Ford, 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 Syrian Arab Republic; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 824, Dana Katherine Bilyeu, of Nevada, to be a Member of the Federal Retirement Thrift Investment Board; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 826, Michael D. Kennedy, of Georgia, to be a Member of the Federal Retirement Thrift Investment Board; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 827, Dennis P. Walsh, of Maryland, to be Chairman of the Special Panel on Appeals; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER (Mr. WARNER). Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 829, Todd E. Edelman, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 830, Judith Anne Smith, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 832, David B. Fein, to be United States Attorney for the District of Connecticut; the nomination be confirmed—I believe, Mr. President, that the United States Attorney for the District of Connecticut would have jurisdiction over any Federal crimes that may have been committed by the individual who tried to blow up people in Times Square on Saturday night. That man lived in Connecticut. Any activities that he engaged in, in planning this dastardly plot in which, thank God, no one was killed, but we have no U.S. Attorney in Connecticut. That would be the chief law enforcement officer on any Federal crimes that have been committed by this American citizen who has confessed to some of his crimes, but we may not be aware of other crimes that may have been committed.

The nomination of David B. Fein be confirmed to be United States Attorney for the District of Connecticut, the motions to reconsider be considered made and laid upon the table, that no further motions be in order, and the President be immediately notified of the Senate's action, and any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Reserving the right to object, I am not sure it is a vacancy in the District of Connecticut at the U.S. Attorney's office. I think this is a replacement nomination. And I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 833, Zane David Memeger, to be United States Attorney for the Eastern District of Pennsylvania; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 834, Clifton Timothy Massanelli, to be United States Marshal for the Eastern District of Arkansas; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 835, Paul Ward, to be United States Marshal for the District of North Dakota; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, there are some nominations on whom the request has not been made. My colleague from Rhode Island has a number of judicial appointments. He will return to the floor to make those unanimous consent requests later—I assume soon. There will be 64 total requests that will be made today that we cannot find opposition for—64 we cannot find opposition.

I am going to now make five requests to which there was opposition. The ones I just made, by the way, the last group I just made, are new. They have been added to the calendar since I made the requests last week. This is going to continue. I am going to do my very best job at impersonating the tenacity of my colleague from Oklahoma. I am going to do my very best job of being a dog with a bone on secret holds. I am not going to give up. I am going to be out here every week, as often as I need to be out here. I am going to get as many colleagues to help me. We now have everybody on this side on board with the exception of Senator BYRD, and I am optimistic we will get Senator BYRD. I am hopeful the next time I will have some of my colleagues on the other side of the aisle, who agree secret holds are wrong, to help make these requests.

The ones I just made were new. As notice to the Senators who may be holding those, they were not made last week. So I urge everyone to check the list and, if they have a hold on them, to notify Leader MCCONNELL and let Leader MCCONNELL know what their objection is and comply with the law they voted on.

Let me make these last ones. I wanted the record to be clear, these are the first ones we made that anybody voiced opposition to—anybody.

Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 552, Jane Branstetter Stranch, to be United States Circuit Judge for the Sixth Circuit; the nomination be confirmed, the motions to reconsider be considered made and laid on the table, no further motions be in order, the President be immediately notified of the Senate's action, and any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. I might note for the record that this nominee was voted out of committee by a vote of 15 to 4, with three Republican Senators supporting her in committee and four Republican Senators opposing her in the committee. The final vote was 15 to 4.

I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 588, Philip Coyle, to be Associate Director of the Office of Science and Technology; that the nomination be confirmed, the motions to reconsidered be considered made and laid upon the table, that no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. On that nominee, the vote out of committee was 19 to 6—19 to 6. Five Republican colleagues supported this nominee and five Republican Senators opposed this nominee. So it was a 5-to-5 split of the Republicans on the committee to that nominee.

I ask unanimous consent the Senate proceed to executive session for purpose of consideration of Calendar No. 703, Benita Y. Pearson, to be United States District Judge for the Northern District of Ohio; that the nomination be confirmed, the motion to reconsider be considered made and laid on the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

I might note this was a voice vote in committee and Senator SESSIONS did raise concerns in committee. So there was not a tally vote. No one requested a rollcall vote on the nominee. It was noncontroversial enough that no one wanted to go on record with a rollcall vote, but we wanted to be very transparent and did want to indicate for the record that Senator SESSIONS did raise concerns in committee about this nominee.

Mr. President, I ask unanimous consent that the Senate proceed to executive session and consider Calendar No. 747, Ari Ne'eman, to be a member of the National Council on Disability. I ask unanimous consent that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, and the President be immediately notified of the Senate's action, and that any statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mrs. MCCASKILL. I should note that this is a nominee who—once again, it was a voice vote. Senator COBURN did indicate some concerns with this nominee at the committee level.

Mr. COBURN. I have an appointment with the gentleman to have a discussion.

Mrs. MCCASKILL. We have now gone through the entire list, with the exception of about 10 judicial nominees on whom Senator WHITEHOUSE will be making the requests. I was hopeful that this week we would know who is holding those folks. We still do not know.

If I might make a suggestion, I am not confident it will be accepted, but if the leadership of the Republican caucus wants to hold these nominees, Senator MCCONNELL can put his name on all of them. Then the people of America will know Senator MCCONNELL is holding them and they will see him as the leader of the Republicans and they can judge accordingly. But if Senator MCCONNELL does not have objections to them and is not willing to put his name on them, then the people who have the objections should put their names on the holds. We are going to break this bad habit.

I do want to make a note that there were four judges I made requests on who inadvertently got on the list. They have been confirmed. We will provide for the record those four names so they can be appropriately noted. So instead of doing 69 today, we are only doing 65.

I thank the Senate for its indulgence. I thank Senator COBURN for remaining on the Senate floor. As I said, Senator WHITEHOUSE will be back to make a few more motions. Let's break a bad habit that the people of this country do not agree with.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I ask unanimous consent to speak for approximately 15 minutes as in morning business for myself.

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

TRIBUTE TO JANE TREAT

Mr. COBURN. Mr. President, I pay tribute to one of my staff members today. She recently left. She had a child and is being a mom and a civic activist. But she was a trusted adviser and, more than that, a dedicated patriot.

Jane Treat, who has been with me since the earliest parts of 2004, is leaving to become a full-time mother. It is hard to lose her. But I understand the attraction as well as the commitment for a much more important job. She first came to work for me as a volunteer, fresh off her studies at Patrick Henry College.

Since that time she has played a key role on my Judiciary Committee through many intense legislative battles. She spent many long days in the Dirksen Building poring through briefing materials, preparing background notes for me, and negotiating on my behalf with other offices.

She was there during the Roberts and Alito hearings. For a time she also served as my interim chief counsel on the committee, since I had no attorneys and she was a nonattorney as well, which was a rare occasion. Her dedication has never wavered. The fact is, she worked the day she delivered her first child. She prepared negotiations that day for a bill that threatened the second amendment of the Constitution and how it interacted with our veterans. We prevailed that day in no small part because of her efforts. One would be hard pressed to find anyone who cherishes the Constitution and who knows its principles as well as Jane Treat.

My legislative director jokes:

Although Jane did not actually write the Constitution, she is its fiercest defender.

I would have to agree.

For the past 2 years, and after the birth of her daughter, Jane has managed a correspondence team that works in my office, ensuring that every letter that reached my desk was treated with the utmost concern and professionalism. She cared for each constituent as if it were written to a close relative or a neighbor. In that, she has done a terrific job.

There is one last quality of Jane that I commend to everyone in the room, and that is courage. Jane has a keen sense of right and wrong and will not allow an injustice to stand, whether it is policy related or simply human. She fights for everybody.

When she disagrees—I am laughing about this because when she disagreed with me, I was always sure I would hear about it later. She would come to the office and knock on the door, and say: Now we need to have a talk. You were wrong.

Of course, I would remind her that she was not elected and I was and there is some interpretation to the Constitution.

But the quality of having the courage to confront on things that are strongly held beliefs is a great quality that built our country, and she distinguishes herself in it. That is in contrast to what usually happens in this town where we avoid difficult issues rather than confront them.

True to her principles, she will turn her attention toward her new community in Broken Arrow, OK, where she will be a full-time mom. It will not be long, for sure, before she is volunteering again for a cause close to her heart.

Jane, we appreciate you. We thank you for your service, and we thank you for the modeling of your behavior.

SECRET HOLDS

Now, I just want to spend a few minutes because what we have just gone through is a challenge to a process that has been ongoing for a long period of time. The President knows I am in agreement with sunshine. As a matter of fact, the President and I created the Transparency and Accountability Act so that everything we do gets published in terms of what we spend and how we spend it.

I agree we ought to be forthright with the reasons we hold individuals. But let's talk about what a hold is. A hold is saying you do not agree to a unanimous-consent request to pass out an individual. In other words, what is a hold? What does it really say?

It really says, first of all, I either may have some very significant concerns with this individual or I may want to study this individual for a period of time and their record before I agree to it or I may want to debate it, the qualifications of the individual.

I agree on the transparency. But I think it is very important that we go back to say—and not necessarily attune the motive. But when I read the sign about those who are being held now versus in the Bush administration, I am reminded that there were over 100 U.S. attorneys and marshals and 50 judges at the same time who were blocked in committee so they could not even get to the floor at that time.

So it depends on where one takes the snapshot. There are lots of reasons to not agree to people being confirmed. I have no problem with stating my reasons, and I will publish my reasons. I do not have any problem even publishing them. But I am not sure that we want to necessarily impugn the motives of somebody who takes advantage of that.

I agree with the Senator from Missouri. I have no problems with putting it out in the open. But I did ask the question, and at some point in time I think it would be wise for those who think that, that we get a parliamentary ruling on what the rule really means because I think there is some discussion. I do not doubt that the intent of what was passed was exactly what we intended: to put it out there. But I think the interpretation or how it may be read is subject to some debate, and it would be great to have a Parliamentarian rule on that.

Finally, I would say, the other side of this issue, which comes back to things that are dear to my heart, is the fact that 94 percent of everything that passes in this body passes by that very process, unanimous consent.

Unanimous consent says: We will not have debate. We will not have an amendment. Things will pass because nobody objects to it passing.

There is a real disadvantage for our country in that. The disadvantage is that the American people never know what we are doing. They do not get a hearing. They do not get to hear the policy debates on both sides of the issue. It is good that we work some things out, but if you watch the floor, what we know is 40 percent of the floor time is spent in a quorum call.

The real issue we are fighting is the moving, is the reason the majority leader does not move them, because it takes time to move them. Right? That is our problem. Time is our biggest enemy in the Senate. But yet that is exactly what our Founders intended. They wanted it to be very difficult to change what they had put in place, and they set in motion this system that says: We are going to make things thoughtfully, under full consideration, with open debate.

We hear our colleagues all the time say this is the greatest deliberative body in the world. It is, but not all of the deliberation goes on on the Senate floor. I have no doubt there are abuses on both sides. I do not know what the motives are.

When I hold somebody, I hold them because I think they are either not qualified for the job, I think they have a past record that would question their character, or I think, in fact, they will do a terrible job at the position even if they are qualified. And I have the right, as an individual Senator, to say I am not going to support that nomination. So I am all for moving and giving Presidents what they want, but I am not for doing it without the debate and the consideration that needs to be there.

So I am very supportive of people standing up and saying why they are holding up people. Through the courtesy of the Senator from Missouri, she did not list one of the judges that I am sure she was going to ask unanimous consent on because I was the lone Senator in the Judiciary Committee to vote against him. Now, I do not know who is holding him. But the fact is, I do not think he is qualified. I want him to be debated. I want to have a chance to inform the American people why I think he should not be a circuit court judge. And that is my right.

To say we are just going to move him without a debate, without anything but

a vote, I am not going to do that on people I think are not truly qualified. So it is not as straightforward as we think. I think we ought to think about how the process is working, that the leaders do work on this process. They move a lot of them forward. I understand the frustration, and I would be giving the same speech if it was turned around. As a matter of fact, I have before.

So I concur with my colleagues. I think sunlight is a wonderful thing. I think there are times where we have the problem, and I will give you three specific examples.

I publish all of my holds. Under the Emmett Till bill, I was immediately accused of being a racist. I held the bill because I wanted it paid for, but as soon as I put out that I was holding the bill, I was accused of being a racist. So there are reasons for people to work behind the scenes to be able to work on things, to solve the problem with their concerns, without it becoming public, so that you get the ultimate action but do not impugn the integrity of people because they may not agree.

So the potential of letting go of all of this idea that we cannot negotiate before we come, and that we have to expose everything—what happened was the special interest groups attacked me ferociously. I ended up becoming best friends with a very significant individual who drove that. What has happened today is we still have not done it because we did not put the money in to pay for it, which is what I wanted. There is still no special provision. There is still no action. We passed it 2 years ago.

Next thing was the Veterans Caregiver Act.

I hated veterans because I thought we ought to pay for it, and I thought it ought to apply to every veteran who had that kind of injury who served this country. But yet there was a ferocious attack by the interest groups. I am willing to take that heat. That comes with the job. But it is certainly not fair to put yourself in that position. I understand why other Senators will not stand up and say every time why they are holding a bill when we see that kind of attack coming at us.

Same thing on breast cancer. My sister-in-law, a cousin, all with breast cancer, two-time cancer survivor myself, but I hated breast cancer patients. You can see why the idea of objecting to a unanimous consent and then immediately putting it out there will end up with the attack of the special interest groups in this country, because you are trying to make something better but your motives are impugned because you don't agree with the special interest that is running the bill in the first place or, in the case of a nomination, the special interest of the administration. They think this is the individual.

I don't defend. I put it out. I am willing to take that. But I understand that is not always the best way to get something accomplished, because you end up burning a lot of energy defending yourself on something you are totally innocent of in the first place. You want a different result for a different reason, but that never gets covered.

This morning has been great. It is interesting that we have had this debate. My hope is we will have people who will stand up and speak and put up why they believe what they believe, fight for the principles they believe in. I think I can defend my principles to the hilt. In front of 100 commonsense folks in this country, I can get 85 of them to decide with me. I am not afraid to do that. I am willing to be honest and transparent and straightforward. But the impugning of motives worries me, because it has nothing to do with not wanting President Obama to have his people. It has to do, in many instances, with people who are truly unqualified or truly are divergent on what their past has been versus what they say. Those are legitimate reasons to have debate on individuals who are going to serve a function in this government.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. FRANKEN. Mr. President, I rise to speak about an issue of great importance, the foreclosure crisis, and the fears and frustrations of American families who are at risk of losing their homes. Wherever I go in Minnesota, people tell me horror stories about losing their homes to foreclosure. I am sure the same is true of the Presiding Officer when he goes home to Virginia.

The foreclosure crisis strikes at the heart of the American dream, threatening Americans' life savings, family lives, and what they have achieved. The President took a big step in addressing this crisis when he created the HAMP program which encourages mortgage servicers to modify home loans to help people avoid foreclosure. But it is often difficult to implement complex programs and HAMP is no exception. When HAMP works, it can be great. It can literally save people's homes. But too often homeowners who try to use the HAMP program find themselves involved in a bureaucratic process that is riddled with errors. These are errors that have serious consequences for people's lives.

Take a woman named Tecora who is a homeowner from south Minneapolis. Incidentally, she is someone who actually would have been helped by a Consumer Financial Protection Bureau. Several years ago, she bought a house with an option ARM or adjustable rate mortgage, where the mortgage payments increased dramatically over the years. Someone should have told her that the teaser rate her lender offered her might be misleading. Someone should have told her she might not be able to afford her mortgage payments in the future. But no one did.

A few years ago, Tecora's payments went up, and she fell behind on her mortgage. She entered HAMP hoping to save her home. But 7 months later, she was told by her mortgage servicer that her file was closed because she had ''declined a final modification of her mortgage.'' Here is the only problem: She hadn't. And her mortgage servicer had no record of a conversation or correspondence with her. They had simply marked the file as closed.

Tecora is lucky enough to be working with a wonderful nonprofit in Minneapolis, Twin Cities Habitat for Humanity. They are helping her to fight this mistake. But they have been working on this since March, and the government resources that are available are not very helpful. In the meantime, Tecora is constantly worried that she may lose her home because her mortgage servicer made a mistake.

Or take Barbara, a homeowner from Minneapolis who fell behind on her mortgage payments because her husband was laid off and her son got cancer, racking up huge medical bills. Talk about someone who might lose their home through no fault of her own. Her mortgage servicer claimed she was not eligible for final mortgage modification, using incorrect information about her financial situation. When she pointed out there was a problem, her servicer told her there was nothing they could do because ''once you have been denied for HAMP, you can't be eligible again.''

Barbara is fighting this, but someone from the government should have her back.

Yesterday I filed an amendment with Senator SNOWE and seven other colleagues to fix the HAMP appeals process. People at risk of losing their homes are going through enough already. They should not be stuck fighting over mistakes with their servicers without a guarantee that someone will be on their side. Our amendment would create an office of the homeowner advocate, modeled after the very successful Office of the Taxpayer Advocate within the IRS. The advocate's office would be an independent unit within Treasury, charged with helping homeowners, their housing lawyers, and their housing counselors to resolve problems with HAMP. The office would be temporary, lasting only as long as HAMP does. But while it exists, it would have a lot of authority to help homeowners and families around the country. For the first time, homeowners would be able to call an office in the government and know that someone with the authority to fix a problem is actually fighting for them.

Staff of this new advocate's office would be able to make sure that servicers obey the rules of HAMP or risk suffering consequences. Perhaps more importantly, opening a case with the advocate's office would delay a servicer's ability to sell a person's house, giving the office time to resolve the problem before it is too late. The director of the advocate's office would be someone who can truly fight for the rights of homeowners. He or she must have a background as an advocate for

homeowners and cannot have worked for either a mortgage servicer or the Treasury Department in the last 4 years. The director will also be able to help those of us in Congress understand what is going on in HAMP. Because the office can collect data about the kinds of complaints and appeals that come in, the director will be in a good place to know what kinds of changes, both administrative and legislative, need to be made to the program and can describe them to the Treasury Department and to Congress.

Once a year the director will issue a formal report laying out in detail all the problems people have had with HAMP and how they can be resolved and the way such problems could be prevented or better resolved in the future.

I know many of my colleagues on both sides of the aisle are understandably worried about the deficit. I want to be clear about one thing: This amendment includes no new appropriations. The advocate's office will be funded with existing money that is set aside for HAMP administrative costs.

I am pleased to say that our amendment is supported by the Treasury Department itself. In fact, yesterday it was featured on the White House's blog as one of ''The Good Guys,'' 10 simple, straightforward amendments that would strengthen the already good Wall Street reform bill. It is a good guy, this thing.

My amendment is also supported by a large number of groups, including Americans for Financial Reform, the Center for Responsible Lending, National Consumer Law Center, the Leadership Conference on Civil and Human Rights, Consumers Union, Consumer Federation of America, the Service Employees International Union, and National Council of La Raza. I am particularly pleased to say that the amendment is also supported by several of the most important housing groups in my home State of Minnesota.

The idea behind the advocate's office is simple, but the impact could be huge for all the people whom we are here to represent. Please join me in helping to ensure that HAMP actually works for families around the country. We owe it to Tecora and Barbara and to all the working families in our States and around the country.

I also rise to talk briefly about another amendment I am proposing to reform the credit rating industry. This industry is fraught with bad practices and perverse incentives. These incentives have produced inflated ratings which resulted in dangerous junk bonds getting AAA ratings and thus being eligible for public pension funds. In fact, the court ruled last week that a suit on this issue brought by CalPERS, the California public employee pension system, can now move forward. CalPERS represents nearly 1.5 million California public employees, including thousands of teachers and public safety officers. CalPERS has brought suit against the three biggest credit rating agencies—Moody's, Standard and Poor's, and Fitch. CalPERS states that the big three provided ''wildly inaccurate and unreasonably high'' ratings to products that ended up in their investment fund. When these structured finance products, including securitized subprime mortgages, tanked, CalPERS pension fund lost almost $1 billion. That is a loss of $1 billion for California teachers, police officers, firefighters, and public servants from their health benefits and retirement plans.

CalPERS is not the only group to take action. Private suits have been filed in New York and the attorneys general of Connecticut and Ohio have brought suit against the rating agencies on behalf of the people of their States. Ohio Attorney General Richard Cordray filed suit last fall on behalf of five Ohio public employee retirement and pension funds. Cordray said:

> The rating agencies assured our employee public pension funds that many of these mortgage-backed securities had the highest ratings and the lowest risk. But they sold their professional objectivity and integrity to the highest bidder. The rating agencies' total disregard for the life's work of ordinary Ohioans caused the collapse of our housing and credit markets and is at the heart of what is wrong with Wall Street today. The inflated ratings cost middle class families in Ohio nearly half a billion dollars in retirement funds.

But this problem is not limited to California and Ohio and New York. It has affected my home State of Minnesota. It has affected the Presiding Officer's home State of Virginia. It has affected every State in this Nation.

By now, I hope colleagues have heard the details of my amendment to reform the credit rating system. It would limit the pay-to-play model currently used in the credit rating industry. The amendment calls for an independent board to develop an assignment system to match the issuers of complex financial products with a qualified rating agency to provide the product's initial rating. This system would apply only to initial ratings. Issuers could seek a second or third rating from whichever credit rater they prefer. But the initial rating would put a check on any subsequent rater which would be disinclined to provide an inflated pie-in-the-sky rating to a junk product.

By providing for an assignment process, the conflicts of interest driving the system will be eliminated, and the assignment process will allow smaller rating agencies that are performing well to get more business and rating agencies performing poorly to get less. This will hold rating agencies accountable for their work. It will incentivize accuracy and increase competition.

I know many of you agree with me, and the list of cosponsors on this amendment is growing. Most recently, I was particularly pleased to have Senator WICKER join our effort. Of course, I am deeply grateful for the leadership of Senators SCHUMER and NELSON and the support of Senators WHITEHOUSE, BROWN, MURRAY, BINGAMAN, MERKLEY, LAUTENBERG, SHAHEEN, and CASEY. Restoring integrity to the credit rating system will provide real protection for working Americans.

Working people such as Tecora and Barbara are still reeling from the effects of this recession. Our unemployment rate still hangs near 10 percent. Working Americans together have lost nearly $4 trillion in the value of their homes and about $3 trillion in the loss of their retirement savings during this economic crisis.

The Wall Street reform bill before us goes a long way to prevent this from ever happening again. But there are a few places where it can be improved. I hope my amendment creating the Office of the Homeowner Advocate will help struggling Americans keep their homes. My amendment calling for an overhaul of the credit rating agency industry will protect millions of Americans from unprecedented losses in their supposedly safe retirement investments. I ask my colleagues for their support on both of these critical amendments.

Mr. President, I yield the floor.

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

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

Mr. SPECTER. Mr. President, I have sought recognition to talk about three amendments pending on the legislation to reform Wall Street. I begin by noting the spirit of bipartisanship which is present on this issue, and I think it is a very important sign. There is too little bipartisanship in this body, and from my travels through my State and elsewhere, I believe the American people are fed up—really sick and tired—with the kind of bickering which is present in the Senate. It took a lot of public pressure and an obvious, great, and serious problem to bring about this bipartisanship. But it is very important that it be present in our efforts to reform Wall Street, and I hope it will be a sign of things to come.

Some time ago, I introduced a bill which would change the decision of the Supreme Court of the United States which held that aiders and abettors were not liable under the Securities Act. I have taken that bill and have submitted it as an amendment with quite a number of cosponsors. It is amendment No. 3776, to allow suits against aiders and abettors of Wall Street fraud, cosponsored by Senators REED, KAUFMAN, DURBIN, HARKIN, LEAHY, LEVIN, MENENDEZ, WHITEHOUSE, FRANKEN, FEINGOLD, and MERKLEY.

Prior to the decision of the Supreme Court of the United States in Central Bank, back in 1994, supplemented by

the Stoneridge Investment Partners decision, the law was that aiders and abettors were civilly liable for damages. It is a very odd circumstance that aiders and abettors remain liable under the criminal law but are not liable under civil law, and this amendment would reinstate the civil liability for aiders and abettors. It is narrowly drawn to apply only to individuals who knowingly provide substantial assistance to the primary violator. But where you have a stock offering and you have many parties who are working with the principal offerer, the offerer can only carry out the fraud with the assistance of quite a number of people.

This amendment will reinstate what had been the law prior to the Supreme Court decisions I just mentioned. I think it is worth noting that Senator SHELBY had introduced similar legislation back in 2002.

The second amendment I wish to discuss briefly is amendment No. 3794, submitted by Senators LEAHY, GRASSLEY, KAUFMAN, and myself, which would direct the Sentencing Commission to review and amend the sentencing guidelines for securities and financial institutions which engage in fraud, and the guidelines should reflect the intent of Congress that penalties for those offenses should be increased.

Earlier this week, on Tuesday, the criminal law subcommittee held a hearing attended by quite a number of very experienced people in the securities field and in criminology. The predominant view was, where you have a fine imposed, it is not a deterrent at all. It is insufficient as punishment for the perpetrator, but it is insufficient for the gravity of the offense. A fine is simply incorporated as part of the cost of doing business, passed on to consumers.

The provision for a jail sentence would be an effective deterrent. I base my own view on this subject from my experience as district attorney of Philadelphia, where I convicted many white-collar criminals and corrupt political figures, such as the chairman of the Philadelphia Housing Authority, the deputy commissioner of licenses and inspection, the stadium coordinator—to name only a few.

If the perpetrators of fraud know they are going to be going to jail, it will have quite a different impact on their own conduct. One of the witnesses testified to a celebrated case where an individual was fined $50 million and was willing to pay that but said, simultaneously with the payment of the fine, if he had been charged criminally, he would have fought it tooth and nail because of the concern about going to jail.

The third amendment I wish to discuss is amendment No. 3806, which provides that there should be a fiduciary duty for broker-dealers to avoid conflicts of interest in investments and make such violations a Federal crime.

In the SEC complaint against Goldman Sachs, the gravamen was—and I acknowledge and am explicit that these are only allegations—that the package of mortgages was put together and then was broken up into securities, and an individual who was involved in putting the package together, knowing the details, immediately hedged and sold short. That means he bet against those securities. He thought they would go down.

It is my view that the people who put that transaction together have a fiduciary duty to tell the investors—even institutional investors—as to exactly what is going on; that they should know somebody is simultaneously saying their professional judgment is that the value is going to go down.

DON'T GIVE MIRANDA WARNINGS TO SUSPECTED TERRORISTS

Mr. President, recently Attorney General Holder testified before the Judiciary Committee in our periodic oversight proceedings and testified that it was the policy of the Department of Justice to handle the interrogation of suspects in terrorism cases on a case-by-case basis. It is my view, which I expressed at the time I questioned Attorney General Holder, that that ought not to be the policy of the Department of Justice; that the policy of the Department of Justice ought to be not to give Miranda warnings to people who are suspected of terrorism.

The Miranda warnings coming out of the decision handed down by the Supreme Court of the United States in 1966—and I recall it well. I was in my first year as district attorney in Philadelphia at the time, and it was quite a jolt to the criminal justice system that my office prepared the details to have a card for the police officers by the end of the week, because they interrogate a great many suspects. But the Miranda warnings require the interrogator to advise an individual that he has the right to remain silent; secondly, that anything he says can and will be used against him; third, that he has the right to an attorney, and that if he wants to stop answering questions at any time in the sequence, he can.

When a suspect in a terrorism case is being questioned, there are issues which are much more important than the conviction of that individual. The important thing is to gain information, find out who may be involved, and gather intelligence to prevent future acts of terrorists. I saw this in some detail during my tenure as chairman of the Intelligence Committee back in the 104th Congress. The recent apprehension of the Times Square bomber, who had the bomb positioned to blow up in Times Square and injure many people is illustrative, and the information he gave without Miranda warnings. He was Mirandized, as I understand it from the media reports at some point, but the information he has given has been very valuable in linking possible coconspirators to the Taliban in Pakistan.

It is not widely understood, but the only consequence of not giving Miranda warnings is that any statements made by the suspect may not be introduced in a criminal trial in a U.S. court. But in the case of the Times Square bomber, as in the case of the Christmas bomber, there was sufficient evidence to move ahead with the convictions. But even if that were not so, the value of getting intelligence information vastly outweighs the interests of convicting the individual in that specific case. Even in that case, there is the potential alternative of being tried by a military commission where the Miranda rules do not apply. So it is my strong recommendation to the Department of Justice, as I had discussed it with Attorney General Holder, as I have communicated it to the FBI Director Bob Mueller, that the policy be changed so that it is not optional with an interrogator to make a decision on a case-by-case basis because the interrogator may make a mistake and decide that this is a case where the Miranda warnings ought to be given, and that may stop the individual from providing information.

Some of the Senators at our Judiciary Committee hearing were of the opinion that the chances of getting information were enhanced by giving the Miranda warnings, and I think that is not only counterintuitive—not what you would expect—but contrary to experience; that the likelihood of a person saying he won't talk if he is advised that he has a constitutional right not to, and then advised that he has a right to counsel, and then advised he will have counsel provided if he doesn't have counsel of his own, and once counsel are in the case, their obligation is to protect the interests of their client. That decision more likely than not will be to remain silent so the individual is not harmed with a potential criminal prosecution. I think the policy of the Department of Justice ought to be to have an absolute rule: No Miranda warnings in cases of persons suspected of terrorism.

There is some suggestion of legislation on this point. I think that raises constitutional issues of separation of power, and what ought to be done is the policy ought to be established now by the Department as an absolute rule not to give Miranda warnings to those suspected of terrorism.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Rhode Island.

Mr. REED. Mr. President, I take the floor today to talk about an amendment which I have been working on with Senator SCOTT BROWN of Massachusetts. I am very fortunate to have Senator BROWN's help, insight, and advice because of his extensive experience not only as a public servant but as a member of the Massachusetts National Guard. As a lawyer, as a company commander, and as someone who has served in various capacities within the Guard, SCOTT BROWN knows from firsthand experience that young troops

particularly, men and women of our Armed Forces, can be exploited by unscrupulous business practices, and that it is essential when we create a Consumer Financial Protection Agency that there be a particular and explicit liaison for military issues.

Many of these young men and women are not in their home towns. In the context of today's operations, they are returning from duty in Iraq or Afghanistan. They have not been spending a lot of money in Afghanistan because there is not a lot to buy, and they come home and they want to buy a new car or they want to do something, and they can be exploited. That exploitation is particularly hard to bear when it is at the expense of a young person who is risking their life in service to his country.

Senator BROWN and I are working on a joint amendment which would create an office of military liaison within the Consumer Financial Protection Bureau. The office would educate and empower servicemembers and their families to make better and more informed decisions, and it would work closely with existing personnel with the Department of Defense and the particular services so there is not only a place to go with a complaint, but also proactive information to avoid some of these missteps.

It would help monitor and respond to complaints by servicemembers and their families, and it would also coordinate efforts among Federal and State agencies, and that I think is absolutely critical. You have local insurance regulators, you have local attorneys general, you have the Better Business Bureau, you have the Department of Defense offices. We have all of these things, but often, particularly for a young soldier, where to go and get comprehensive one-stop help is hard to figure out. Many times they will approach an office and they will be told, well, you have a good case but we don't do that, and they are sent away. Given the time and commitment they have to devote to their service, this is another burden they have to bear, and we hope we can reduce this burden.

Senator BROWN and I are working to develop the details of this office. I think it is absolutely necessary.

We have looked at—and I have been looking at this problem for years now, and communicating with the Department of Defense, Secretary Gates, and others at the Department of the Treasury about how to protect better our service men and women. We think this initiative will help us in that regard.

The Department of Defense and the Government Accountability Office have found that servicemembers are particularly vulnerable to expensive and often abusive products. I will take off my Senate hat and put on my old company commander hat in a paratrooper company. You have 18- and 19-year-old men and women. They receive an enlistment bonus of sometimes $20,000. They don't have a home. They have bought the most expensive stereo equipment they already can buy. What they are looking for is something they can call their own, and usually that is a big, expensive car or truck. When they walk in the door, I think some of these dealers are aware of their vulnerability: lack of information, the short time they are back from an overseas deployment, the time before they are moving on to a deployment. So they are vulnerable. They are also vulnerable in another sense, not just with respect to products but there are so many families now where one of the spouses is in the military and the other spouse is in the military, and that other spouse is deployed overseas. So you have a member of the U.S. military with children, with a father or mother overseas, and they are struggling. Even with the pay they receive at the end of the month, it is a tough go. They are looking for good deals. There are too many people out there who are looking for people who are vulnerable to good deals. That is the reality today in the military. It is a different military force in terms of Operation TEMPO where I served where you were rather stabilized in one area for 3 years at least and then moved to another. Now you have families where the husband returns and 3 months later the wife deploys. That is a huge burden on the children, but it creates a kind of uncertainty and turmoil where financial problems are much more likely to occur. That is another factor of vulnerability, and we have to recognize that.

We also understand too that some of the more unscrupulous operators out there know these soldiers are getting steady paychecks, but they might not last all the way through the month. So they are a good sort of subject for some of these ploys. They have steady pay. You can go after them legally to try to attempt to do something, subject to the Servicemembers Civil Service Relief Act and all the other laws we try to protect them with. This is a target population in some respects, I hesitate to say, but unfortunately I think it is true.

The Under Secretary of Defense Clifford Stanley, who has been charged to be the champion for quality of life for protecting service families, has stated recently: ''The personal financial readiness of our troops and families equates to mission readiness.'' He reports that 72 percent of military financial counselors surveyed—these are the individuals at DOT, all the personnel whose job is to talk to troops about their well-being—72 percent surveyed had counseled servicemembers on auto lending abuses in the past 6 months. So this is not an isolated incident in one part of the country; this is across the country, across the Department of Defense, and that is a significant situation.

It is not just auto abuses. Payday loans, for example. As I said, anybody who is working around a military base knows that come the end of the month, that paycheck will probably be deposited into the checking account, so that is a good bet to lend money to. But the interest rates they are lending at, sometimes the APR is up to 800 to 900 percent. That is staggering. But they are doing it, and they are doing it to young soldiers who have their heads, some of them, looking forward to a deployment. Some of them have not even gotten over the last deployment, and we have to be conscious of that.

Rent-to-own loans. This is where you go to a shop and you say I would like to rent a TV for 30 days because you am deploying in 45 days. Then you don't deploy so you keep it, and in some cases you end up paying two to three times the retail price of the appliance. At least individual soldiers have to be informed of those practices and know about it. We have to be sure they are getting that information.

Refund anticipation loan is a classic. You are going to get your tax refund and if you let us give you a loan right now, we will take that tax refund. These turn out in some cases to have APRs reaching as high as 250 percent as you are borrowing against your prospective tax refund.

Automobile title pawns. Short-term loans are given to soldiers—and again, as a company commander, I never—well, let me see. It was more common to see a soldier in debt than to see a soldier investing in bonds and safe investments. It is the nature of being 18 years old, with some money and the feeling that you have to spend it. But automobile title pawns, short-term loans with very high interest rates to give the title of their car to the lender as collateral. Again, the whole notion to some youngsters in the military about what is a title, what is collateral, when they are looking at $2,000 or $3,000 on the table, that is only details. But when the time comes to pay the loan, they don't, and they lose their $25,000, $30,000 car or truck, and then it is a reality.

I think we have to be conscious of this. All of this is compelling in the abstract. It becomes even more compelling when you listen to the stories of individual soldiers.

Three years ago, Army SPC Jennifer Howard bought a car while she was stationed at Fort Riley, KS. As it turns out, the dealership that arranged her financing charged her for features on the car that she never got, such as a Moon roof and alloy wheels. You may say to yourself, how could anybody be so gullible? If you are a young soldier who just got back or is getting ready to go and you look at a shiny car and you know you didn't order the alloy wheels and Moon roof but you are not going to take time checking the manifest to see what you are charged with—that has been my experience. A dealer should know that, but apparently, in this case, they charged her anyway.

She says:

The dealership knows that we're busy, we're tired. We don't take the time, because

we don't have a lot of time. It's like get in, get out, do what we got to do. If we get taken advantage of later we'll deal with it then.

SGT Diann Traina bought her car from a dealership that didn't actually own it. When it was repossessed, she was stuck with a $10,000 bill. She said:

Trying to concentrate on my job and the mission in Iraq and then trying to figure out stuff that's going on at home, it was really stressful.

She goes on to say:

If there's some type of regulation or agency that's out there to back you up, you know who to go to to complain about somebody if you're experiencing a problem.

That is what we want to do—coordinate these activities through a military liaison at a consumer financial protection agency. We want to do that because it is the right thing to do and because if we cannot protect the men and women who are protecting us, then we have to ask seriously whether we are doing our job. I know they are doing their job.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I understand that today is set aside just for debate on amendments and on the bill. I certainly understand that, and I, accordingly, will not call up my amendment today.

I do want to talk about an amendment I have filed—amendment No. 3892—so that I can put my colleagues on notice about this amendment and the importance of it. This amendment has a straightforward goal. It is to protect the existing legal structures that ensure that electricity and natural gas rates consumers pay will continue to be just and reasonable and free from manipulation.

I am joined in the amendment by a strong bipartisan group of cosponsors, Senators who, like me, have worked hard over the years to strengthen consumer protections in this area of electricity and natural gas, who have worked cooperatively with me and others on the Energy Policy Act of 2005 to close the so-called Enron loophole.

I want to particularly express my appreciation to Senator MURKOWSKI, who is ranking member on the Energy Committee that I am privileged to chair; Senator REID of Nevada, who is cosponsoring the amendment, and Senators BROWNBACK, CANTWELL, CORNYN, WYDEN, and CORKER. All of these Senators have cosponsored the amendment we filed last night. I am grateful for their support and the hard work of their staffs in developing the amendment.

The bill currently before the Senate has several important objectives. It improves accountability in the financial system. It provides much needed protections for American consumers of financial services. It also expands the scope of the Commodity Futures Trading Commission's authority with respect to regulating commodity markets. I support all of these objectives. I am very glad to see them included in this bill.

However, I believe a small but vital addition to the bill is needed to ensure that America's consumers of energy products are adequately protected, and that is the issue the amendment I am discussing addresses.

We need to be sure that both under existing law and under the expanded authority being given to the Commodity Futures Trading Commission in this bill, there is no compromise of the role the Federal Energy Regulatory Commission is expected to perform and the role our State public utility commissions are expected to perform to regulate rates and terms with respect to electricity and natural gas markets.

Without this amendment, the bill before us could inadvertently prevent those agencies from exercising their authority and their responsibility to ensure just and reasonable rates for electricity and natural gas consumers. Without this amendment, the Federal Energy Regulatory Commission's ability to exercise antimanipulation authority could be called into question. These are enforcement tools to protect consumers. Congress granted them to the FERC in 2005 as a direct response to Enron's manipulation of markets in California and the West.

The amendment offers a solution that I believe is consistent with the philosophy of consumer protection that underlies other parts of the bill before us. The effect is simple: The amendment preserves the authority of both FERC and the States to ensure that electricity and natural gas rates are just and reasonable. Direct examination of prices is central to each of those agency's mission. In FERC's case, this authority is longstanding; it was established over 70 years ago.

Without this amendment, a critical check on energy prices may be lost. That is true for two connected reasons:

First, the CFTC's so-called ''exclusive jurisdiction,'' which is in the Commodity Exchange Act, could be interpreted to operate to prevent FERC and State public utility commissions from acting where their jurisdictions intersect the Commodity Futures Trading Commission's jurisdiction.

Second, the CFTC's regulatory mission differs significantly from that of the FERC and from that of the State public utility commissions. The CFTC's mission is to protect market participants and to promote fair and orderly trading on those markets. It doesn't directly examine commodity prices in these markets. It does not consider the reasonableness of rates charged to consumers.

While properly functioning futures markets are important, the Commodity Futures Trading Commission cannot and does not have the authority or responsibility to provide protections that are provided by the Federal Energy Regulatory Commission and the State public utility commissions under their respective authority.

As I have said, I support the bill generally. I believe it is essential to ensuring that consumers are protected. However, both I and my cosponsors on the amendment strongly believe it is necessary to preserve existing consumer protections that may otherwise be lost.

It is a simple, straightforward, tailored amendment that does not create loopholes in jurisdiction. It does nothing to diminish the ability of the CFTC to regulate commodity exchanges such as NYMEX or to require public disclosure of swaps or any other authority they have to regulate the mechanics of commodity markets, including those that trade energy commodities.

Once again, I thank my cosponsors for working to develop this amendment. I urge my colleagues to support the amendment. At the appropriate time, I will seek to call the amendment up and have it voted on by the Senate.

Seeing no other Senator seeking recognition, 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. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EMERGENCY SUPPLEMENTAL FUNDING

Mr. WHITEHOUSE. Mr. President, I wish to speak on a couple of subjects. The first is to express my regret that the supplemental funding to help Rhode Island in the wake of its unprecedented, historic flooding was stopped on the floor today by a Republican objection. I would have hoped that when a true emergency happened in somebody's home State, with a Presidential disaster declaration, and Senators were working to remedy that, the traditional deference for emergency spending would be appropriate.

Senator REED, as the senior Senator and a member of the Appropriations Committee, is the leader on this issue. He and I will continue to work to get this done for Rhode Island. It is regrettable that conditions on the Senate floor are such that emergency spending—while we still have people out of their homes, flood damage, unprecedented in Rhode Island's history—is not something on which we simply could have agreed.

There are floods in other States, and I assume similar rules will apply when they come forward.

EXORBITANT INTEREST RATES

The second issue I wish to mention, since I see the distinguished chairman of the Banking Committee, is I continue to hope for and argue for the amendment I have proposed that will do something very helpful for something that bedevils constituents in every single one of our States, which is exorbitant, ridiculous interest rates.

Every day in the mail in every one of our States people are opening offerings from the big credit card companies;

proposals that, particularly when certain tricks or traps are triggered, kick them into 30 percent or higher interest rates.

It was not too long ago in all of our lifetimes that a solicitation such as that would have been a matter to bring to the attention of the authorities in our States because it would have been illegal under State law to charge that kind of reprehensible interest rate.

We as a Congress never decided we were going to overrule all those State laws; State laws that have existed since the founding of the Republic, a tradition of interest rate regulation that in our culture goes back to the Code of Hammurabi, goes back to Roman law. We never decided as a Congress: Oh, we are not going to allow States to protect their consumers any longer, protect their citizens any longer against exorbitant interest rates.

It happened in a strange, backhanded, almost inadvertent way. It began with a statute in 1863 that said a transaction was governed by law based on where it was located. In 1863, there was not a lot of interstate banking. So there did not need to be a lot of discussion about what ''located'' meant. But by 1978, interstate banking was fairly common. The question came to the Supreme Court, what that word ''located'' in that Civil War statute meant.

In a very unheralded decision at the time, a decision that did not appear to be of any significant consequence, the U.S. Supreme Court said: If you have a bank located in one State and a consumer located in another State, the law is going to be the State of the bank. It had to be one or the other. They chose the State of the bank. The Marquette decision it was called. It involved the Presiding Officer's State, Minnesota. The decision said it is going to be the bank.

It did not seem very controversial. Why not? The problem was that the banking industry began to figure out that there was a loophole. They began to figure out if they could go to the States with the worst consumer protection laws in the country or if they could go to a friendly Governor and say: Hey, I will make you a deal; you clear out your consumer protection laws, and we will come and we will locate a big, high-rise business full of call center people in your State—from that State, they could operate nationally.

Because of this funny 1978 decision from an 1863 law, bit by bit all of the constitutional Federalist States rights protections, where sovereign States have the right to protect their own citizens against outrageous and exorbitant interest rates, became ineffectual. We never decided that as a Congress. If we had that debate, I will venture that it would have gone the other way. It would be preposterous for us as a Congress to look out across America and say: OK, we are going to pass a law that says that the worst State for consumer protection regulation is going to be the State that governs. Obviously, it would create a race to the bottom. Obviously, it would completely disenfranchise home States trying to protect their own citizens from States a country away that, frankly, couldn't care less.

A Rhode Island consumer being victimized is not the problem of the State of South Dakota. It just is not. We would never have passed that law. It would have been an outrageous law to have passed. Yet because of this funny, quirky Supreme Court decision, that is the way the law in practice developed because smart bank lawyers figured out this trick and have taken advantage of it.

It is not just consumers who are getting clobbered as a result. It is also unfair to local banks. A Rhode Island bank is under Rhode Island interest rate laws. But an out-of-State bank, the big Wall Street banks with their big credit card subsidiaries, can play by their own rules, by the worst rules in the country. A Rhode Island bank, a Connecticut bank, a Minnesota bank—they have to play by local rules. It is not fair to local lenders to have this discrepancy, because it is bad for consumers, because consumers all across this country are paying interest rates now that would have been illegal just two or three decades ago, because it is anticompetitive, because it allows the biggest banks to compete unfairly against local community banks, Main Street banks, disadvantaged against these big Wall Street monsters because nobody in Congress ever made a decision nor would we have made a decision that this was OK. It is time we closed this loophole.

I look forward to when we return to have the chance to get a vote on that amendment. I very much hope it will be a bipartisan vote because the principles that the Republican Party has espoused about local control, States rights, protecting local institutions against big, out-of-State national entities, federalism, and our common interests across this floor in consumer protection all suggest that it is the kind of thing that should not divide us Republican against Democrat. This is closing a loophole that never should have existed, that we never would have voted for if we had the chance to vote for it, and that has resulted in immense harm to the public of all of our States as a result of these exorbitant interest rates.

As I said, the interest rate solicitation that is landing in Minnesota today, that is landing in Connecticut today, and that is landing in Rhode Island today would have been a matter to bring to the authorities but for this loophole.

NOMINATIONS

The final issue I wish to talk about—I guess every Member on the other side of the aisle has left town, so there is no Republican in Washington, DC, to come and object to the unanimous consent request I would like to offer for the stalled nominees.

There are now over 100 names on the Executive Calendar, which is the list of everybody who is pending awaiting confirmation by the Senate. At a similar time in President Bush's administration, the number was 20. Those numbers do go up and down, as our Republican friends have said. But just a few days ago, the number was over 80, and the number at the equivalent time in President Bush's administration was 8.

There is a clear, systemic attack on the Obama administration's ability to staff its administration and, thus, govern. What is enabling it is the fact that you do not have to have a reason to oppose a nominee. Why don't you have to have a reason? You don't have to have a reason because you can do it secretly. Nobody even knows that it is you opposing the nominee. If you want to have a systemic attack on a President's ability to govern, what a good thing a secret hold on the President's nominees is.

It has always been around, but it has been abused to a point where we need to be rid of it. We need to be rid of it. The right of a Senator to hold a nominee should be protected, but that Senator should have to stand and say that they are doing it. If they do not have a good enough reason to hold a nominee that they are willing to stand up and disclose it, then that is, frankly, not a legitimate hold. The secret holds have to end.

The situation we are in right now, because there is a Senate rule on point, is that the list of nominees has been read through. Great credit is due Senator MCCASKILL who has read through the bulk of these—76 of them I think she has been through in the first round. We asked for unanimous consent on all those nominees. We received objections. I received an objection on a nominee that I asked for from a Senator who had voted for that nominee in committee. He voted for the nominee in committee but came to the floor and objected. The nominee had cleared the Judiciary Committee with zero opposition, and yet on the floor, held and held and held, anonymously—secretly.

Under the Senate rules, when you have asked for unanimous consent and you have had that objection, you have 6 days to come clean on your hold. Do you know how many Republican Senators followed that rule? One did. One did. Senator COBURN of Oklahoma disclosed he had been holding six or seven appointees. That still leaves 100 on the Senate floor right now on the Executive Calendar.

We began early this morning calling them up to see if those holds were still there because after 6 days, you are either supposed to have disclosed it or relinquished it. Sure enough, we kept on getting objection and objection and objection.

So only two things can be true: Either they are just flagrantly violating the rule—what are we going to do?

There is no enforcement mechanism built into the rule. They are just saying: Make us follow the rule. You can't make us, so we are not going to follow it. We know it is a rule—we voted for it, and it passed with enormous bipartisan support. It is a rule of the Senate, but we just choose not to follow it because we get too much advantage out of secret holds. Senate rules don't really apply to us unless you can make us follow them.

That is a sad place for the Senate to be, if that is where we are on this issue. But there are only two alternatives. The other one is that they still have holds, but it is not a hold by the same Senator who had the hold when the unanimous consent was asked for and, therefore, he has, under the rule, relinquished his hold. But what he has done is gone and found another Senator and gotten that other Senator to take up the hold for him. That has been called a couple of things on the Senate floor. It has been called the hold switcheroo.

For those of us who are prosecutors, it looks a lot like money laundering. It is hold laundering. The person who has the real principal and interest with the hold has gotten someone else to aid and abet their scheme to interrupt the process of nominations and to violate the rules by taking on the hold for them and allowing them to dodge the rule. That is not a great way of doing business either.

So whether we have a direct and outright willful violation of the Senate rules—massive violation of the Senate rules—or a scheme to hold-launder—to get people to aid and abet you in your secret hold and dodge the rule that way—neither is a great situation. So we need to fix the rules so this cannot continue. But it is a sad reflection on the use of the secret hold that we are in a circumstance now where the only two possible sets of facts are those two. It just plain isn't right.

If you are here as a Senator, you should follow the rules of the Senate. If you are not prepared to do that, find something else to do. There are plenty of people who would love to serve here. To find another Senator to put a sham hold in to protect your hold so that you can dodge this rule is, frankly, unscrupulous. That is something that, if you could figure out who it was and you could get them in front of a jury and make that case, oh boy. But we don't have the enforcement mechanism. So we have to continue.

But let me tell you who I was going to be asking for. There are two judges for the Fourth Circuit, Albert Diaz and James Wynn. They are a Republican and a Democrat. They are paired for appointment. They cleared the Judiciary Committee with only one opposing vote. One was unanimous and the other was everybody but one. They have been on the calendar now for weeks, and I would like to ask unanimous consent, but I am informed that because there are no Senate Republicans in Washington I am unable to do that right now. But they have been on the calendar for many weeks and there is no reason for them not to be confirmed.

The following judicial candidates, or nominees for a judgeship, are also pending: Jon E. DeGuilo to be a U.S. district judge for the Northern District of Indiana; Audrey Goldstein Fleissig to be a U.S. district judge for the Eastern District of Missouri; Lucy Haeran Koh to be a U.S. district judge for the Northern District of California; Tanya Walton Pratt to be a U.S. district judge for the Southern District of Indiana; Jane E. Magnus-Stinson to be a U.S. district judge for the Southern District of Indiana; Brian Anthony Jackson to be a U.S. district judge for the Middle District of Louisiana; Elizabeth Erny Foote to be a U.S. district judge for the Western District of Louisiana; Mark A. Goldsmith to be a U.S. district judge for the Eastern District of Michigan; Marc T. Treadwill to be a U.S. district judge for the Middle District of Georgia; Josephine Staton Tucker to be a U.S. district judge for the Central District of California; Gary Scott Feinerman to be a U.S. district judge for the Northern District of Illinois; and Sharon Johnson Coleman to be a U.S. district judge for the Northern District of Illinois.

All of these candidates are waiting. They are on the calendar, all pending, all cleared with either unanimous or very strong votes out of the Judiciary Committee, and all blocked. Yet I believe all are supported by Republican Senators from their home States. These are all district judges.

This is a judge who sits in a local district within a State. These are not people who are setting national policy. These are people who are handling local trials, local motions practice, local Federal court litigation.

If you have the support of your two home Senators, and if you have cleared the Judiciary Committee, that ought to be pretty simple. That ought to be pretty simple. But they are being held, and they are being held for a reason. They are being held because, if the Republicans can force the Democrats to burn floor time, it takes floor time away from the work we need to do to rebuild our economy. It takes floor time away from the work we need to do to clean up Wall Street. It takes floor time away from the bills we need to pass to fund our troops overseas. It takes floor time away from our ability to do the work of governing. It is obstruction, pure and simple.

Because there are only so many hours in a day, there are only so many days in a week, and only so many weeks in a month, it is a zero sum game. You take time and make us spend it on these judges, and it is time we can't spend on floor work on the necessary legislation we have to get through. That is why we see these strange votes where we have cloture demanded and all that procedure; and then when the vote is finally taken we have 98 to 0 or where we have had 100 to 0. Why go through all that trouble when we end on a vote of 98 to 0 or 100 to 0? It is because there are ulterior motives. It is to burn the floor time of the Senate and to give the leader less and less time to accomplish the things that we need to accomplish.

So I can go through many other names, but I will not do that now. I will await the return of a Republican Member of the Senate to Washington so that somebody can be on the floor of the Senate to either object or not object to these nominees. I would hope at this point that we will find they do not object. That would be consistent with the rule.

If they have been on the calendar this long, if they have had their unanimous consent objected to, if the 6 days have run and if nobody has come up and actually said they have a hold on that person, then a unanimous consent ought to pass. Under the rule, a unanimous consent ought to pass. If it doesn't, it is a sign that they are either flatout violating the rule or that they have done this hold laundering scheme with a colleague to dodge out from under the rule. I think neither is credible and we need to work our way through this process. So on the next possible occasion, I will be doing that.

I thank the Presiding Officer for his courtesy and his time. I yield the floor, and 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. WHITEHOUSE. 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. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

MOTHER'S DAY

Mr. BYRD. Mr. President, this Sunday, May 9, is Mothers Day in the United States.

Many European nations have long observed ''Mothering Sundays,'' which are also part of the liturgical calendar in several Christian denominations. Catholics observe Laetare Sunday, the fourth Sunday in Lent, in honor of the Virgin Mary and the ''mother'' church. Some historians believe the tradition of sending flowers on Mothers Day grew out of the practice of allowing children who worked in large houses that day off to visit their families. The children would pick wildflowers to take to their mothers on their way home for the visit. The ancient Greeks celebrated the Vernal Equinox with a springtime festival devoted to Cybele,

a mother of many Greek gods. The ancient Romans dedicated the March holiday Matronalia to Juno, mother of the gods, and gave gifts to mothers on that day.

In the United States, the origins of Mothers Day are rooted deep in the West Virginia hills. Anna Jarvis, the daughter of Ann Maria Reeves Jarvis, was born in Webster, WV, on May 1, 1864. Her family moved to Grafton during her childhood. On May 12, 1907, 2 years after her mother's death, Anna Jarvis held a memorial service to honor her mother's memory. From that small event began Anna Jarvis' eventually successful campaign to institute ''Mothers Day'' as a recognized U.S. holiday.

Today, the International Mother's Day Shrine, located in Grafton, continues to commemorate Anna Jarvis' accomplishment. Yet there are mothers who will not receive cards or flowers, or enjoy a Mothers Day brunch with their husbands and children. In Montcoal, WV, there are 29 families who are grieving the loss of sons, husbands, brothers, and friends. The Nation grieves with them, but that is little comfort for those mothers who will wake on the second Sunday in May to quiet houses and silent phones. Mothers Day holds little comfort for the wives and mothers who must now get on with raising children and paying bills alone following this tragic event.

Mothers Day is a lonely day as well for the ''Gold Star'' mothers, wives and families of soldiers lost to battle in Iraq and Afghanistan. First used in World War I, service flags—a blue star on a white background, surrounded by a red border—are hung to signify that the family has a loved one overseas in harm's way. Should the awful news arrive that their loved one had lost his or her life, a gold star replaces the blue star, signaling the supreme sacrifice that has been made.

Miners' mothers and soldiers' mothers, as well as the mothers of anyone facing dangerous working conditions on a daily basis, know well the constant stress and tension of having a dearly loved child in harm's way. Every day is a long, silent, chanting prayer: ''Please, God, keep my child safe and bring him home to me.''

Tragedy reminds us just how much mothers care, and how much their children mean to them. This Mothers Day, we once again have an opportunity to thank our mothers for that loving care, and to thank all mothers for the great generosity of spirit that marks a caring mother.

TIMES SQUARE BOMBING ATTEMPT

Mr. REID. Mr. President, last weekend's close call is a wake-up call. The attempt to bomb New York City's Times Square should remind us both of the vigilance we must maintain to keep Americans safe, and the triviality of political fingerpointing.

I first want to once again thank the men and women who helped avert disaster—and saved untold lives—in one of America's most iconic and crowded spaces. The system in place appears to be working as designed: improved aviation security measures helped authorities apprehend the subject as he attempted to flee, and the suspect is now reportedly providing valuable information that could help disrupt and prevent future attacks. I am confident he and anyone else who contributed to this atrocious act will be held to account.

But I have been disappointed that some have tried to politicize this attempted attack on our homeland. Let's use this opportunity to pursue justice and make sure our law enforcement, military, and intelligence services have every tool they need to do their jobs. Let's also be sure we examine what worked and didn't so we can improve the system. But let's not mistake it as an opportunity to score political points or make baseless accusations that do nothing to ensure our citizens' safety.

A thwarted terrorist attack in the heart of our Nation's most populous city reminds us that we have enough real enemies—we need not be our own.

Let's also put this latest incident in context: It follows a successful series of steps the administration has taken to protect us here at home.

We have disrupted numerous terrorism plots and prosecuted dozens of terrorist suspects, including the ringleader of a plan to bomb New York City's subway system last year. Attorney General Holder called that plot ''one of the most serious terrorist threats to our nation since September 11th, 2001.'' That attack never happened; we cannot know how many lives were saved, and our country is safer because of this administration's swift and smart leadership.

Our Nation is also prosecuting David Headley, who is accused of plotting with the Pakistani terrorist organization Lashkar-e-Taiba to launch the devastating terrorist attacks in Mumbai in 2008, as well as to carry out other plots in South Asia and Europe. Attorney General Holder has credited the criminal justice system for achieving both a guilty plea and valuable intelligence about terrorist activities from Headley.

And earlier this year, the FBI disrupted an international network of extremists operating through the Internet to plot attacks, raise funding for terrorism and recruit new terrorists. Two Americans—Colleen LaRose and Jamie Paulin-Ramirez, also known as Jihad Jane and Jihad Jamie—were arrested along with six foreign co-conspirators. The two Americans will soon be tried in Federal court.

That's not all. We have also enhanced intelligence sharing, strengthened aviation security and boosted human-intelligence collection capabilities. We have fully implemented the 9/11 Commission's recommendations. And we have significantly increased funding for the FBI, the Defense Department, the Department of Homeland Security and the intelligence community.

At the same time, we're keeping Americans safer at home by taking the fight to terrorists abroad. In recent months we have helped kill or capture the most wanted terrorist leaders across Iraq, southeast Asia, Africa and the Afghanistan-Pakistan region. We have disrupted al-Qaida's operations, finances and safe havens, and killed or captured more than half of its top 20 leaders. It is widely agreed that al-Qaida is the weakest it has been since 9/11.

We have also begun to reverse the Taliban's momentum in Afghanistan, in part by tripling the number of U.S. troops there. And we have strengthened our partnership with Pakistan, empowering it to mount major offensives against terrorists within its borders.

I am praising the administration's vigilance not because the President is a Democrat. I am praising it because it is, by any objective measure, successful. America is as prepared as ever to defend against any threat, domestic or foreign.

If, as this past weekend showed us, private citizens, street vendors, law enforcement and intelligence officials can work together in everyone's best interest, I would expect U.S. Senators to be able to do the same.

COMMENDING CONGRESSMAN DAVID OBEY

Mr. FEINGOLD. Mr. President, we recently learned that DAVID OBEY, one of the longest serving Members of the other body, a friend, and a fellow member of the Wisconsin delegation, has decided to retire. To come here and try to sum up his record and accomplishments isn't easy to do; Congressman OBEY has achieved so much for Wisconsin, and for this Nation. He has been the dean of the Wisconsin delegation, the chairman of the House Appropriations Committee, and a national leader on many issues affecting hard-working families.

Congressman OBEY understood the concerns of the people of the 7th District of Wisconsin, and he has been their champion for more than 40 years. He and I are both so fortunate to represent this beautiful swath of Wisconsin's north woods, including the magnificent Apostle Islands. In fact, Congressman OBEY and I worked together to protect the Apostles, designating almost 80 percent of the Apostles as federally protected wilderness.

That was just one of many ways that Congressman OBEY and I worked together. Recently, we were also proud to come together to honor our friend, the late Gaylord Nelson, on the 40th anniversary of Earth Day. And through the years, I have had the chance to work with Congressman OBEY in areas where he has shown tremendous leadership,

including advocating for veterans, farmers, and seniors.

Wisconsin veterans have a terrific ally in Congressman OBEY, who has stood up for better funding and facilities for our veterans time and again. I have been so pleased to work with him to open new veterans' health clinics, push for more vet centers, and fight for the best possible care for those men and women who have sacrificed so much for our country.

Congressman OBEY has also worked tirelessly on behalf of the farmers of our State. He has fought for country-of-origin labeling and other issues critical to ginseng farmers, worked for emergency appropriations funding for direct payments to help shore up the safety net for dairy farmers in tough times, and pushed to create, extend and improve the Milk Income Loss Contract, MILC, Program. Those are just a few of the many things he has done for Wisconsin's farmers, and I was proud to join him in those efforts.

He is also a determined advocate for our seniors, and was a critical member of our effort to save the SeniorCare Program in both 2007 and 2009. Congressman OBEY also has a long and distinguished record on a host of other issues. He is committed to strengthening public education, improving our health care system, and a longtime advocate for political and congressional reforms.

There are so many things he has accomplished, and so many reasons he will be missed. I want to take this opportunity to recognize Congressman OBEY's outstanding service in the other body. I wish him all the best, and I thank him for his dedicated work for the people of Wisconsin and for every American.

RECOVERY OF SNOWBOARDER KEVIN PEARCE

Mr. LEAHY. Mr. President, Kevin Pearce has been recognized as one of the best athletes that Vermont has produced. Like all Vermonters, Marcelle and I hold him in our prayers and thoughts after a devastating snowboarding accident while preparing for the 2010 Winter Olympics.

We have heard reports from his parents, Simon and Pia, about his recovery and like all Vermonters, and so many other Americans, we are so thankful he is back home and progressing every day in his recovery.

I watched Kevin's interview with Tom Brokaw on ''The Today Show'' and he discussed how well he was doing with Tom. I also wanted my fellow Senators to see the article about him in The New York Times and ask unanimous consent to have printed in the RECORD that article at the completion of my remarks. I can only image how much Kevin enjoys being home with his parents and his brothers and how much we all appreciate his tremendous courage and abilities.

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

[From the New York Times, May 3, 2010]

''NO PLACE LIKE THIS FOR SOOTHING CARE''

(By John Branch)

NORWICH, VT.—The renovated barn next to the family house was always one of Kevin Pearce's favorite places. There is a skateboard ramp out back and a giant recreation room inside, with three loftlike bedrooms above.

But Pearce, 22, did not move into the barn until he was a teenager, and soon he was off to snowboarding schools and then on the worldwide circuit. Home, and his room in the barn, became just somewhere to get away for a day or two.

Now it is the ultimate destination.

More than four months after sustaining a traumatic brain injury during a training accident, after missing the Olympics and living in hospitals in Utah and Colorado, Pearce has returned, indefinitely.

''It's the best thing ever,'' Pearce said Monday, sitting on a living room sofa while holding hands with his mother, Pia. Handwritten ''welcome home'' posters, balloons and streamers hung about the house. ''There's nothing I could think of that's any better than coming back home.''

And for a moment or two, it was easy to imagine that nothing extraordinary had happened to Kevin Pearce at all. He laughed with his family. He talked about snowboarding. He discussed the Olympics. He smiled, big as ever.

''Things feel very normal to me,'' Pearce said.

The past few months, much of which Pearce does not remember, have been anything but normal. On Dec. 31, Pearce, a rising rival to Shaun White who was expected to make the United States Olympic halfpipe team and compete for a medal, fell and hit his head (he was wearing a helmet) while practicing a trick in Park City, Utah.

A helicopter flew Pearce, unconscious, to the University of Utah Hospital in nearby Salt Lake City. The front half of his shoulder-length hair was shaved so the recesses of his brain could be drained of fluid. His family was summoned immediately. Painful questions about whether he would live slowly gave way to uneasy ones about how his life would be.

This is how, for now. Pearce walks without assistance, a little gingerly but sturdily enough to navigate the stairs to the familiar bedroom in the barn. He looks a little different now, too. His hair, after being shaved to one length, has grown back to the top of his ears. He wears bold, dark-rimmed Oakley Frogskin frames with prismlike lenses. The vision in each eye is fine, but the eyes themselves are a bit out of sync, not quite tracking together.

''My eyes are a little sketchy,'' he said. ''But they're better than they used to be. They used to be scary blurry.''

Pearce says he does not remember the accident. He does not remember much from the weeks before the injury, including Christmas at home. He remembers nothing after the injury until the first week of February, when he was flown from Utah to Craig Hospital, a brain and spinal cord rehabilitation center near Denver.

He does remember watching White win the Olympic gold medal. Scotty Lago, a good friend of Pearce's who had had far less big-event success, won bronze. It was tough, Pearce admitted.

But there is no memory of the moment when he learned just how severe his injury was.

''I never felt sorry for myself,'' Pearce said. ''This is kind of what I signed up for when I started snowboarding.''

He vows that he will snowboard again.

''Obviously, I won't be doing all the things I was doing,'' Pearce said. ''Hopefully, I can still do some of the tricks.''

Pearce's promising comeback has not included a recalculation of his long-range ambitions. His family is consciously keeping him concentrated on the here and now.

''There is little use thinking about the past, what could have been, or what may be in the future,'' Simon Pearce, his father, said. ''He has stayed focused on the present moment. And it feels like it is working.''

For months, Pearce has undergone rehabilitation and therapy, both mental and physical, often for six or more hours a day. More recently, he went to a Denver-area gym, too, riding stationary bikes and playing basketball. He left only after making at least 7 of 10 free throws. That sort of therapy will continue at Dartmouth-Hitchcock Medical Center in nearby Lebanon, N.H., and at a local athletic club. Pearce's rehabilitation continues to focus on vision, balance and memory.

Pearce cannot fully appreciate how far he has come, however often he watches videos that his family shot of him in the hospital in January. But his parents and three older brothers—Andrew (28), Adam (25) and David (24)—are still amazed.

That hit home when the traveling party—Kevin, Adam, their parents and their snowboarding friend Jack Mitrani—arrived at the airport in Boston. Pearce walked through the airport and carried his own bag.

They arrived at the family home about 9 p.m. Saturday. About 30 friends and family members greeted them with cheers, hugs and a few tears.

On Sunday, after a short hike up Gile Mountain, the family gathered for supper. It was a rare reunion. Simon and Pia generally alternated trips out West. Andrew, a manager for the glass-blowing company founded by Simon Pearce, went back and forth, too. Adam left his job as a snowboarding instructor in Utah and has barely left Kevin's side, even moving back to the barn. (Among other things, Adam provided updates on a get-well Facebook page for more than 48,000 fans.) David, who has Down syndrome and has long provided perspective and inspiration, mostly stayed in Vermont and worked for the family business.

But one horrific accident, and one celebratory homecoming, brought them together again.

''Sitting at the table, for me, was a big thing,'' Pia Pearce said. '''Wow, here we are, back at our round table, sitting together.'''

On Monday afternoon, everything seemed normal. Kevin Pearce, after taking a nap in his old bedroom in the barn, was sitting in the grass out front with the snowboarder Ellery Hollingsworth. The sun was shining. Pearce was smiling.

Yes, it was good to be home. Awfully good.

ADDITIONAL STATEMENTS

50TH ANNIVERSARY OF THE DOSSIN GREAT LAKES MUSEUM

● Mr. LEVIN. Mr. President, I am delighted to recognize the Dossin Great Lakes Museum as it celebrates its 50th anniversary. This institution has graced the shores of Belle Isle, MI, since 1960, when the Dossin family generously helped to transform the deteriorating Maritime Museum into an enduring tribute to the Great Lakes. For

50 years, the Dossin Great Lakes Museum has offered visitors from across the state and beyond the opportunity to explore and experience firsthand much of our State's 300-year maritime narrative.

Michigan's rich history is inextricably linked to the Great Lakes. In fact, Michigan's name is derived from the Ojibwa word for ''large water,'' a root that speaks to the lakes' defining influence on our State's evolution. The lakes are integral to Michigan's social, cultural, and economic character. Native American tribes established trade routes through these inland seas, which European settlers, led by the French, relied on to develop a thriving fur trade beginning in the late 1600s. During the War of 1812, American and British soldiers fought to wrest control over these precious waterways. Today, the Great Lakes are a superhighway across which giant freighters glide. Some of these great ships have become the stuff of maritime legend, such as the famous *Edmund Fitzgerald*, whose tragic tale has captured the imagination of Michiganians for generations.

The Dossin Great Lakes Museum is a lens through which visitors can study and appreciate the tremendous importance of the Great Lakes. Its permanent exhibits include the enormous bow anchor of the *Edmund Fitzgerald*, the pilot house of the S.S. *William Clay Ford*, and one of the largest known collections of scale model ships in the world. Located on Belle Isle in the middle of the Detroit River, facing the Canadian shore, the Dossin Great Lakes Museum devotes many of its resources to explaining Detroit's prominent role in the rich international history of the Great Lakes. The museum's dedicated staff are committed to providing visitors with an exciting and educational experience, and to ensuring that residents of Michigan and visitors to our State continue to learn about the rich heritage of the Lakes.

For 50 years, this Detroit landmark has served an important role in illustrating Michigan's enduring ties to the Great Lakes. It offers the prospect of adventure and knowledge for those who walk through its doors, and its exhibits tell stories that transport visitors through three centuries of maritime history. I know my colleagues join me in congratulating all those affiliated with the Dossin Great Lakes Museum on its 50th anniversary and in wishing them the best for another 50 years of navigating the course of our history.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE

At 10:18 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5019. An act to provide for the establishment of the Home Star Retrofit Rebate Program, and for other purposes.

MEASURES REFERRED

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

H.R. 4899. An act making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; to the Committee on Appropriations.

H.R. 5019. An act to provide for the establishment of the Home Star Retrofit Rebate Program, and for other purposes; to the Committee on Finance.

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. LAUTENBERG (for himself, Mrs. GILLIBRAND, and Mr. BROWN of Ohio):

S. 3329. A bill to provide triple credits for renewable energy on brownfields, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CASEY (for himself and Mr. SPECTER):

S. 3330. A bill to amend title 38, United States Code, to make certain improvements in the administration of medical facilities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

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

S. 3331. A bill to establish a Native American Economic Advisory Council, and for other purposes; to the Committee on Indian Affairs.

By Mr. McCAIN (for himself and Mr. KYL):

S. 3332. A bill to implement a comprehensive border security plan to combat illegal immigration, drug and alien smuggling, and violent activity along the southwest border of the United States; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY (for himself and Mr. ROCKEFELLER):

S. 3333. A bill to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. KLOBUCHAR (for herself and Mr. THUNE):

S. Res. 515. A resolution designating the week beginning May 2, 2010, as ''National Physical Education and Sport Week''; considered and agreed to.

By Mrs. SHAHEEN (for herself and Mr. DODD):

S. Res. 516. A resolution recognizing the contributions of AmeriCorps members to the lives of the people of the United States; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. LIEBERMAN, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, Mr. CARPER, Mr. DORGAN, Mr. WYDEN, Mr. BURRIS, Mr. BAYH, and Mr. UDALL of New Mexico):

S. Res. 517. A resolution in support and recognition of National Train Day, May 8, 2010; considered and agreed to.

By Mr. THUNE (for himself, Mr. CASEY, Mr. JOHNSON, and Mr. FEINGOLD):

S. Res. 518. A resolution designating the week beginning May 9, 2010, as ''National Nursing Home Week''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1012

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1012, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 1275

At the request of Mr. WARNER, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1275, a bill to establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

S. 1317

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1317, a bill to increase public safety by permitting the Attorney General to deny the transfer of firearms or the issuance of firearms and explosives licenses to known or suspected dangerous terrorists.

S. 3141

At the request of Mr. BINGAMAN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 3141, a bill to amend the Internal Revenue Code of 1986 to provide special rules for treatment of low-income housing credits, and for other purposes.

S. 3288

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3288, a bill to amend the Internal Revenue Code to reduce tobacco smuggling, and for other purposes.

S. 3302

At the request of Mr. ROCKEFELLER, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 3302, a bill to amend title 49, United States Code, to establish

new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, and for other purposes.

S. 3305

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3306

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 3306, a bill to amend the Internal Revenue Code of 1986 to require polluters to pay the full cost of oil spills, and for other purposes.

AMENDMENT NO. 3775

At the request of Mr. WYDEN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 3775 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3808

At the request of Mr. FRANKEN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of amendment No. 3808 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3844

At the request of Mr. BROWNBACK, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 3844 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 3331. A bill to establish a Native American Economic Advisory Council, and for other purposes; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise to introduce a bill that would establish a Native American Economic Advisory Council. This Council's primary duties would be to consult, coordinate, and make recommendations to Federal agencies for the purpose of improving the substandard economic conditions that exist in our Native communities.

Currently, there is no Council, and despite the federal government's ''trust'' relationship with Native American tribes, Native Americans themselves continue to rank lowest in quality of life standings. As a Nation we need to preserve our Native Communities; they are rich with cultural significance and living history.

Native communities are considered ''emerging economies'' that have stalled because of the current economic situation. This bill is an attempt to keep these communities moving by educating, empowering, and encouraging our future Native American leaders to create sustainable economic growth programs in their own communities.

In Hawaii, the cost of living ranges from 30 percent to 60 percent higher than the national average. We have to start planning for economic stability in the future and this bill provides an opportunity to do so. I look forward to working with my colleagues on reinvesting in our Nation's future.

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. 3331

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 ''Native American Economic Advisory Council Act of 2010''.

SEC. 2. FINDINGS.

Congress finds—

(1) the United States has a special political and legal relationship and responsibility to promote the welfare of the Native American people of the United States;

(2) evaluations of indicators and criteria of social well-being, education, health, unemployment, housing, income, rates of poverty, justice systems, and nutrition by agencies of government and others have consistently found that Native American communities rank below other groups of United States citizens and many are at or near the bottom in those evaluations;

(3) Native Americans, like other people in the United States, have been hit hard by the deepest recession of the United States economy in over 50 years, causing a significant decline in employment and economic activity across the United States;

(4) Native American communities have been described as ''emerging economies'' and consequently have been stalled in the efforts of the communities to build sustainable growing economies for the people of the communities and are being adversely affected faster than the rest of the United States;

(5) economic stimulus programs to help Native American communities generate jobs and stronger economic performance will require United States financial and tax incentives to increase both local and expanded investment that is tailored to the unique needs and circumstances of Native American communities;

(6) the impacts of the ongoing recession and the near collapse of the financial and banking systems require a review of assumptions about the future, the need for new growth strategies, and a focus on laying the groundwork for economic success in the 21st century;

(7) there is a continuing need for direct economic stimulus, including needs for improving rural infrastructure and alternative energy in rural and Native American communities of the United States and providing Native Americans leaders with the tools to create jobs and improve economic conditions;

(8) in light of the role of Native American communities as emerging markets within the United States, there are opportunities and needs that should be addressed, including consideration of United States support for the pooling of resources to create an Indigenous Sovereign Wealth Fund that is similar to those Funds created around the world to diversify revenue streams, attract more resources, invest more wisely, and create jobs;

(9) Native Americans should be participants when major economic decisions are made that affect the property, lives, and future of Native Americans; and

(10) Native Americans should fully participate in rebuilding Native American communities and have necessary tools and resources.

SEC. 3. PURPOSE.

The purpose of this Act is to authorize and establish a Native American Economic Advisory Council to consult, coordinate with, and make recommendations to the Executive Office of the President, Cabinet officers, and Federal agencies—

(1) to improve the focus, effectiveness, and delivery of Federal economic aid and development programs to Native Americans and, as a result, improve substandard economic conditions in Native American communities;

(2) to build and expand on the capacity of leaders in Native American organizations and communities to take positive and innovative steps—

(A) to create jobs;

(B) to establish stable and profitable business enterprises;

(C) to enhance economic conditions; and

(D) to use Native American-owned resources for the benefit of members; and

(3) to achieve the long-term goal of improving the quality of Native American life and living conditions and access to basic public services to the levels enjoyed by the average citizen and community of the United States by the year 2025.

SEC. 4. ESTABLISHMENT OF NATIVE AMERICAN ECONOMIC ADVISORY COUNCIL.

(a) IN GENERAL.—There is established a Native American Economic Advisory Council (referred to in this Act as the ''Council'') to advise and assist the Executive Office of the President and Federal agencies to ensure that Native Americans (including Native American members, communities and organizations) have—

(1) the means and capacity to generate and benefit from economic stimulus and growth; and

(2) fair access to, and reasonable opportunities to participate in, Federal economic development and job growth programs.

(b) MEMBERS.—

(1) IN GENERAL.—The Council shall consist of 5 members appointed by the President.

(2) INITIAL APPOINTMENTS.—Not later than 180 days after the date of enactment of this Act, the President shall appoint the initial members of the Council.

(3) COMPOSITION.—Of the members of the Council—

(A) 1 member shall be an Alaska Native;

(B) 1 member shall be a Hawaiian Native; and

(C) 3 members shall represent American Native groups and organizations from other States.

(4) CHAIRPERSON.—The President shall designate 1 of the members of the Council to serve as Chairperson.

(c) EXPERIENCE.—Each member of the Council shall be a Native American who, as a result of work experience, training, and attainment, is well qualified—

(1) to identify, analyze, and understand the attributes and background of successful business enterprises and economic programs in Native American communities and cultures;

(2) to appraise the economic development programs and activities of Federal agencies in the context of the goals and purposes of this Act; and

(3) to recommend programs, policies, and needed program modifications to improve access to and effectiveness in the delivery of economic development programs in Native American communities.

(d) VACANCIES.—A vacancy on the Council—

(1) shall not affect the authority of the Commission; and

(2) shall be filled in the same manner as the initial appointments to the Council.

(e) EXPENSES.—Each Member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at the rate authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the homes or regular places of business of the employees in the performance of services for the Council.

(f) STAFF.—

(1) IN GENERAL.—The Council may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other staff as are necessary to enable the Council to perform the duties required under this Act.

(2) COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Council may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM AMOUNT.—The rate of pay for the executive director and other personnel of the Council shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(g) DETAIL OF EMPLOYEES.—

(1) IN GENERAL.—An employee of the Federal Government may be detailed to the Council without reimbursement.

(2) CIVIL SERVICE STATUS.—The detail of an employee shall be without interruption or loss of civil service status or privilege.

(h) TEMPORARY SERVICES.—The Council may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(i) ADMINISTRATIVE SERVICES.—The Secretary of Commerce shall provide necessary office space and administrative services for the Council (including staff of the Council).

SEC. 5. DUTIES.

(a) IN GENERAL.—The Council shall advise and make recommendations to Federal agencies on—

(1) proposing sustainable economic growth and poverty reduction policies in a manner that promotes self-determination, self-sufficiency, and independence in urban and remote Native American communities while preserving the traditional cultural values of those communities;

(2) ensuring that Native Americans (including Native American communities and organizations) have equal access to Federal economic aid, training, and assistance programs;

(3) developing economic growth strategies, finance, and tax policies that will enable Native American organizations to stimulate the local economies of Native Americans and create meaningful new jobs in Native American communities;

(4) increasing the effectiveness of Federal programs to address the economic, employment, medical, and social needs of Native American communities;

(5) administering Federal economic development assistance programs with an understanding of the unique needs of Native American communities with the objectives of—

(A) making Native American leaders knowledgeable about best business practices and successful economic and job growth strategies;

(B) promoting investment and economic growth and reducing unemployment and poverty in Native American communities;

(C) enhancing governance, entrepreneurship, and self-determination in Native American communities; and

(D) fostering demonstrations of transformational changes in economic conditions in remote Native American communities through the use of innovative technology, targeted investments, and the use of Native American-owned natural and scenic resources;

(6) improving the effectiveness of economic development assistance programs through the integration and coordination of assistance to Native American communities;

(7) recommending educational and business training programs for Native Americans that increase the capacity of Native Americans for economic well-being and to further the purposes of this Act; and

(8) initiating proposals, as needed, for fellowship and mentoring programs to meet the economic development needs of Native American communities.

(b) ADDITIONAL DUTIES.—The Council shall—

(1) prepare a compilation of successful business enterprises and joint ventures conducted by Native American organizations, including tribal enterprises and the commercial ventures of Native Corporations (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)) in the State of Alaska; and

(2) periodically sponsor and arrange conferences and training workshops on Native American business activities, including providing mentors, resource people, and speakers to address financing, management, marketing, resource development, and best business practices in Native American business enterprises.

SEC. 6. ASSESSMENT OF IMPACTS OF LEGISLATIVE PROPOSALS ON NATIVE AMERICAN ECONOMIC PROSPECTS AND OPPORTUNITY.

In preparing and communicating the comments and recommendations of the President on proposed legislation to committees and leadership of Congress, the Director of the Office of Management and Budget and the head of a Federal agency shall include an assessment of the impacts of the proposed legislation on the economic and employment prospects and opportunities provided in the proposed legislation to improve the quality of living conditions of Native American communities, organizations, and members to the levels enjoyed by most people of the United States.

SEC. 7. REPORTS.

The Council shall—

(1) prepare periodic reports on the activities of the Council; and

(2) make the reports available to—

(A) Native American communities, organizations, and members;

(B) the General Services Administration;

(C) the Office of Management and Budget;

(D) the Domestic Policy Council;

(E) the National Economic Council;

(F) the Council of Economic Advisers;

(G) the Secretary of the Treasury;

(H) the Secretary of Commerce;

(I) the Secretary of Labor;

(J) the Secretary of the Interior;

(K) the Secretary of Energy; and

(L) members of the public.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act such sums as are necessary.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 515—DESIGNATING THE WEEK BEGINNING MAY 2, 2010, AS ''NATIONAL PHYSICAL EDUCATION AND SPORT WEEK''

Ms. KLOBUCHAR (for herself and Mr. THUNE) submitted the following resolution; which was considered and agreed to:

S. RES. 515

Whereas the week beginning May 2, 2010, is observed as National Physical Education and Sport Week;

Whereas a decline in physical activity has contributed to an unprecedented epidemic of childhood obesity in the United States, which has more than tripled since 1980;

Whereas regular physical activity is necessary to support normal and healthy growth in children and is essential to their continued health and well-being;

Whereas, according to the Centers for Disease Control and Prevention, overweight adolescents have a 70 to 80 percent chance of becoming overweight adults, increasing their risk for chronic disease, disability, and death;

Whereas physical activity reduces the risk of heart disease, high blood pressure, diabetes, and certain types of cancers;

Whereas type 2 diabetes can no longer be referred to as ''late in life'' or ''adult onset'' diabetes because it occurs in children as young as 10 years old;

Whereas the Physical Activity Guidelines for Americans, published by the Department of Health and Human Services, recommend that children engage in at least 60 minutes of physical activity on most, and preferably all, days of the week;

Whereas, according to the Centers for Disease Control and Prevention, only 17 percent of high school students meet that goal of 60 minutes of physical activity a day;

Whereas children spend many of their waking hours at school and therefore need to be active during the school day to meet the recommendations of the Physical Activity Guidelines for Americans;

Whereas, according to the Centers for Disease Control and Prevention, 1 in 4 children in the United States does not attend any school physical education classes and fewer than 1 in 4 children in the United States engage in 20 minutes of vigorous physical activity each day;

Whereas teaching children about physical activity and sports not only ensures that they are physically active during the school day, but also educates them on how to be physically active and the importance of being physically active;

Whereas, according to a 2006 survey by the Department of Health and Human Services, 3.8 percent of elementary schools, 7.9 percent of middle schools, and 2.1 percent of high schools provide daily physical education classes or the equivalent for the entire school year, and 22 percent of schools do not require students to take any physical education classes at all;

Whereas, according to that survey, 13.7 percent of elementary schools, 15.2 percent of middle schools, and 3.0 percent of high schools provided physical education at least 3 days per week, or the equivalent thereof, for the entire school year for students in all grades in the school;

Whereas research shows that fit and active children are more likely to thrive academically;

Whereas increased time in physical education classes can improve children's attention and concentration and result in higher test scores;

Whereas participation in sports teams and physical activity clubs, which are often organized by schools and run outside the regular school day, can improve students' grade point averages, attachment to schools, educational aspirations, and the likelihood of graduating;

Whereas participation in sports and other physical activities also improves self-esteem and body image in children and adults;

Whereas children and youth who take part in physical activity and sports programs develop improved motor skills, healthy lifestyles, improved social skills, a sense of fair play, strong teamwork skills, and self-discipline and avoid risky behaviors;

Whereas the social and environmental factors affecting children are in the control of the adults and the communities in which children live, and therefore the Nation shares a collective responsibility in reversing the childhood obesity trend;

Whereas efforts to improve the fitness level of children who are not physically fit may also result in improvements in academic performance; and

Whereas the Senate strongly supports efforts to increase physical activity and participation of youth in sports: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning May 2, 2010, as ''National Physical Education and Sport Week'';

(2) recognizes the central role of physical education and sports in creating healthy lifestyles for all children and youth;

(3) encourages school districts to implement local wellness policies, as described in section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1751 note), that include ambitious goals for physical education, physical activity, and other activities addressing the childhood obesity epidemic and promoting child wellness; and

(4) encourages schools to offer physical education classes to students and to work with community partners to provide opportunities and safe spaces for physical activities before and after school and during the summer months for all children and youth.

SENATE RESOLUTION 516—RECOGNIZING THE CONTRIBUTIONS OF AMERICORPS MEMBERS TO THE LIVES OF THE PEOPLE OF THE UNITED STATES

Mrs. SHAHEEN (for herself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 516

Whereas, since its inception in 1994, the AmeriCorps national service program has proven to be a highly effective way to engage the people of the United States in meeting a wide range of local and national needs and promoting the ethic of service and volunteering;

Whereas, each year, AmeriCorps provides opportunities for approximately 85,000 individuals across the United States to give back in an intensive way to their communities, their States, and the Nation;

Whereas those individuals improve the lives of the Nation's most vulnerable citizens, protect the environment, contribute to public safety, respond to disasters, and strengthen the educational system;

Whereas AmeriCorps members serve thousands of nonprofit organizations, schools, and faith-based and community organizations each year;

Whereas AmeriCorps members, after their terms of service end, are more likely to remain engaged in their communities as volunteers, teachers, and nonprofit professionals than the average individual;

Whereas, on April 21, 2009, President Barack Obama signed the Serve America Act (Public Law 111–13; 123 Stat. 1460) into law, which was passed by bipartisan majorities in both the House of Representatives and the Senate and reauthorized AmeriCorps and will expand AmeriCorps programs to incorporate 250,000 members each year;

Whereas national service programs have engaged millions of people in the United States in results-driven service in the Nation's most vulnerable communities, providing hope and help to people facing economic and social needs;

Whereas, in 2010, as the economic downturn puts millions of people in the United States at risk, national service and volunteering are more important than ever; and

Whereas AmeriCorps Week, observed in 2010 from May 8 through May 15, provides the perfect opportunity for AmeriCorps members, alumni, grantees, program partners, and friends to shine a spotlight on the work done by AmeriCorps members and to motivate more people in the United States to serve their communities: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the contributions of AmeriCorps members to the lives of the people of the United States;

(2) acknowledges the significant accomplishments of AmeriCorps members, alumni, and community partners; and

(3) encourages the people of the United States to join in a national effort to salute AmeriCorps members and alumni and raise awareness about the importance of national and community service.

SENATE RESOLUTION 517—IN SUPPORT AND RECOGNITION OF NATIONAL TRAIN DAY, MAY 8, 2010

Mr. LAUTENBERG (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. LIEBERMAN, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, Mr. CARPER, Mr. DORGAN, Mr. WYDEN, Mr. BURRIS, Mr. BAYH, AND MR. UDALL of New Mexico) submitted the following resolution; which was considered and agreed to:

S. RES. 517

Whereas on May 10, 1869, the ''golden spike'' was driven into the final tie at Promontory Summit, Utah, to join the Central Pacific and the Union Pacific Railroads, ceremonially completing the first transcontinental railroad and therefore connecting both coasts of the United States;

Whereas in highly populated regions Amtrak trains and infrastructure carry intercity passengers and commuters to and from work in congested metropolitan areas, providing a reliable rail option while reducing congestion on roads and in the skies;

Whereas Amtrak ridership in Fiscal Year 2009 reached 27.1 million passengers from 46 states;

Whereas, for many rural Americans, Amtrak represents the only major intercity transportation link to the rest of the country;

Whereas passenger rail provides a fuel-efficient transportation system, thereby providing clean transportation alternatives and energy security;

Whereas, when combined with all modes of transportation, passenger railroads emit only 0.2 percent of the travel industry's total greenhouse gases and one freight train can move a ton of freight 480 miles on one gallon of fuel;

Whereas developing this pipeline of national high-speed and intercity passenger rail projects will revitalize the domestic manufacturing industry and create additional American jobs building on the one million good-paying, middle-class-creating American jobs that can never be off-shored that are already supported by the rail industry;

Whereas ridership on Amtrak grew every year from 2000 through 2008, and is currently on track for 2010 to be its best ridership year ever, further demonstrating the increased demand for intercity passenger rail services; and

Whereas our railroad system is a source of civic pride, the gateway to our communities and a tool for economic growth that creates transportation-oriented development and livable communities: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of National Train Day, as designated by Amtrak.

SENATE RESOLUTION 518—DESIGNATING THE WEEK BEGINNING MAY 9, 2010, AS ''NATIONAL NURSING HOME WEEK''

Mr. THUNE (for himself, Mr. CASEY, Mr. JOHNSON, and Mr. FEINGOLD) submitted the following resolution; which was considered and agreed to:

S. RES. 518

Whereas more than 1,500,000 elderly and disabled individuals live in the nearly 16,000 nursing facilities in the United States;

Whereas the annual celebration of National Nursing Home Week invites people in communities nationwide to recognize nursing home residents and staff for their contributions to their communities;

Whereas the theme for National Nursing Home Week in 2010 is ''Enriching Every Day'', honoring caregivers who are ''enriching every day'' for elderly and disabled individuals, adding value to their lives and helping them to overcome many of the infirmities of age and disability;

Whereas nursing homes are intimate communities where acts of caring, kindness, and respect are the norm;

Whereas, when the positive bond that naturally develops between patients and their caregivers is established, patients experience not only better physical care and healing, but also enrichment of the mind, heart, and spirit and an affirmation of their value; and

Whereas National Nursing Home Week recognizes the people who provide care to the Nation's most vulnerable population: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning May 9, 2010, as ''National Nursing Home Week'';

(2) recognizes that a majority of people in the United States, because of social needs, disability, trauma, or illness, will require long-term care services at some point in their lives;

(3) honors nursing home residents and the people who care for them each day, including family members, volunteers, and dedicated long-term care professionals, for their contributions to their communities and the United States; and

(4) encourages the people of the United States to observe National Nursing Home Week with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3910. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 3911. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3912. Mr. WHITEHOUSE (for Ms. CANTWELL) proposed an amendment to the bill H.R. 3619, to authorize appropriations for the Coast Guard for fiscal year 2010, and for other purposes.

SA 3913. Mr. WHITEHOUSE (for Mr. GREGG) proposed an amendment to the resolution S. Res. 480, condemning the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and calling on the military regime in Burma to permit a credible and fair election process and the transition to civilian, democratic rule.

SA 3914. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 3915. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3916. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3917. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3918. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3919. Mr. CONRAD (for himself, Mr. CRAPO, Mr. BARRASSO, Mr. KERRY, Mr. BROWN of Massachusetts, Ms. SNOWE, Ms. LANDRIEU, Mr. DORGAN, Mr. ROBERTS, Mr. ENZI, Mrs. MCCASKILL, Ms. COLLINS, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3920. Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. NELSON of Nebraska, Mr. JOHANNS, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3921. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3910. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1013, line 18, strike ''and'' and all that follows through line 20 and insert the following:

''(ii) a description of any internal review of rating procedures and methodologies conducted by the nationally recognized statistical rating organization; and

''(iii) an evaluation of how well the nationally recognized statistical rating organization adheres to the rating procedures and methodologies of the nationally recognized statistical rating organization;

''(iv) a narrative response agreeing or disagreeing with the results of the most recent annual examination of the nationally recognized statistical rating organization carried out by the Commission under subsection (p)(3); and

''(v) a certification that the report is accurate and complete.

On page 1016, line 18, strike ''and'' and all that follows through line 23 and insert the following:

''(viii) the policies of the nationally recognized statistical rating organization governing the post-employment activities of former staff of the nationally recognized statistical rating organization; and

''(ix) whether the nationally recognized statistical rating organization fully complies with the public disclosure requirements under this section regarding rating procedures and methodologies.

SA 3911. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, between lines 12 and 13, insert the following:

(5) DISCLOSURE OF REASONS FOR DETERMINATION.—

(A) STATEMENT.—Following an affirmative determination by the Council with respect to any nonbank financial company that is registered pursuant to the Investment Company Act of 1940, the primary financial regulatory agency may request the Council to provide a detailed statement of—

(i) reasons for the determination by the Council that material financial distress at that particular company would pose a threat to the financial stability of the United States; and

(ii) why prudential regulation by the primary financial regulatory agency would be inadequate to prevent such a threat.

(B) REQUESTS FOR RECONSIDERATION.—If the primary financial regulatory agency disagrees with the detailed statement of reasons provided under subparagraph (A), the agency may request the Council to reconsider its determination, or may propose its own prudential standards to address the concerns identified in the statement of reasons in lieu of prudential standards imposed by the Board of Governors, which prudential standards the Council shall accept, unless it determines, by a vote of not fewer than 2/3 of the members then serving, including an affirmative vote by the Chairperson, that such prudential standards would be inadequate to prevent such a threat.

On page 40, line 23, insert after ''company,'' the following: ''including all procedures under subsection (e)(5),''.

SA 3912. Mr. WHITEHOUSE (for Ms. CANTWELL) proposed an amendment to the bill H.R. 3619, to authorize appropriations for the Coast Guard for fiscal year 2010, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Coast Guard Authorization Act for Fiscal Years 2010 and 2011''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for each of fiscal years 2010 and 2011 as follows:

(1) For the operation and maintenance of the Coast Guard, $6,556,188,000, of which $24,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,383,980,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, to remain available until expended; such funds appropriated for personnel compensation and benefits and related costs of acquisition, construction, and improvements shall be available for procurement of services necessary to carry out the Integrated Deepwater Systems program.

(3) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,361,245,000.

(4) For environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $13,198,000.

(5) For research, development, test, and evaluation programs related to maritime technology, $19,745,000.

(6) For operation and maintenance of the Coast Guard reserve program, $133,632,000.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 49,954 as of September 30, 2010, and 52,452 as of September 30, 2011.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years for fiscal year 2010, and 2,625 student years for fiscal year 2011.

(2) For flight training, 170 student years for fiscal year 2010 and 179 student years for fiscal year 2011.

(3) For professional training in military and civilian institutions, 350 student years for fiscal year 2010 and 368 student years for fiscal year 2011.

(4) For officer acquisition, 1,300 student years for fiscal year 2010 and 1,365 student years for fiscal year 2011.

TITLE II—ADMINISTRATION

SEC. 201. AUTHORITY TO DISTRIBUTE FUNDS THROUGH GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS TO MARITIME AUTHORITIES AND ORGANIZATIONS.

Section 149 of title 14, United States Code, is amended by adding at the end the following:

''(c) GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.—The Commandant may, after consultation with the Secretary of State, make grants to, or enter into cooperative agreements, contracts, or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety and environmental requirements, classification, and port state or flag state law enforcement or oversight.''.

SEC. 202. ASSISTANCE TO FOREIGN GOVERNMENTS AND MARITIME AUTHORITIES.

Section 149 of title 14, United States Code, as amended by section 201, is further amended by adding at the end the following:

''(d) AUTHORIZED ACTIVITIES.—

''(1) The Commandant may transfer or expend funds from any appropriation available to the Coast Guard for—

''(A) the activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

''(B) the activities of maritime authority liaison teams of foreign governments making reciprocal visits to Coast Guard units, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

''(C) seminars and conferences involving members of maritime authorities of foreign governments;

''(D) distribution of publications pertinent to engagement with maritime authorities of foreign governments; and

''(E) personnel expenses for Coast Guard civilian and military personnel to the extent that those expenses relate to participation in an activity described in subparagraph (C) or (D).

''(2) An activity may not be conducted under this subsection with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.''.

SEC. 203. COOPERATIVE AGREEMENTS FOR INDUSTRIAL ACTIVITIES.

Section 151 of title 14, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''All orders''; and

(2) by adding at the end the following:

''(b) ORDERS AND AGREEMENTS FOR INDUSTRIAL ACTIVITIES.—Under this section, the Coast Guard industrial activities may accept orders and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense and the Department of Homeland Security.''.

SEC. 204. DEFINING COAST GUARD VESSELS AND AIRCRAFT.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by inserting after section 638 the following new section:

''§ 638a. Coast Guard vessels and aircraft defined

''For the purposes of sections 637 and 638 of this title, the term Coast Guard vessels and aircraft means—

''(1) any vessel or aircraft owned, leased, transferred to, or operated by the Coast Guard and under the command of a Coast Guard member; or

''(2) any other vessel or aircraft under the tactical control of the Coast Guard on which one or more members of the Coast Guard are assigned and conducting Coast Guard missions.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 17 of such title is amended by inserting after the item relating to section 638 the following:

''638a. Coast Guard vessels and aircraft defined.''.

TITLE III—ORGANIZATION

SEC. 301. VICE COMMANDANT; VICE ADMIRALS.

(a) VICE COMMANDANT.—

(1) Section 41 of title 14, United States Code, is amended by striking ''an admiral,'' and inserting ''admirals,''.

(2) The fourth sentence of section 47 of title 14, United States Code, is amended by striking ''vice admiral'' and inserting ''admiral''.

(b) VICE ADMIRALS.—Section 50 of such title is amended to read as follows:

''§ 50. Vice admirals

''(a)(1) The President may designate no more than 4 positions of importance and responsibility that shall be held by officers who—

''(A) while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade; and

''(B) shall perform such duties as the Commandant may prescribe.

''(2) The President may appoint, by and with the advice and consent of the Senate, and reappoint, by and with the advice and consent of the Senate, to any such position an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for such appointments.

''(b)(1) The appointment and the grade of vice admiral shall be effective on the date the officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 51(d) of this title, shall terminate on the date the officer is detached from that duty.

''(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the grade of vice admiral—

''(A) while under orders transferring the officer to another position designated under subsection (a), beginning on the date the officer is detached from that duty and terminating on the date before the day the officer assumes the subsequent duty, but not for more than 60 days;

''(B) while hospitalized, beginning on the day of the hospitalization and ending on the day the officer is discharged from the hospital, but not for more than 180 days; and

''(C) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer's retirement, but not for more than 60 days.

''(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

''(2) An officer serving in a grade above rear admiral who holds the permanent grade of rear admiral (lower half) shall be considered for promotion to the permanent grade of rear admiral as if the officer was serving in the officer's permanent grade.

''(d) Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.''.

(c) REPEAL.—Section 50a of such title is repealed.

(d) CONFORMING AMENDMENTS.—Section 51 of such title is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) An officer, other than the Commandant, who, while serving in the grade of admiral or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

''(b) An officer, other than the Commandant, who is retired while serving in the grade of admiral or vice admiral, or who, after serving at least 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.

''(c) An officer, other than the Commandant, who, after serving less than 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.''; and

(2) by striking ''Area Commander, or Chief of Staff'' in subsection (d)(2) and inserting ''or Vice Admiral''.

(e) CONTINUITY OF GRADE.—Section 52 of title 14, United States Code, is amended by inserting ''or admiral'' after ''vice admiral'' the first place it appears.

(f) CONTINUATION ON ACTIVE DUTY.—The second sentence of section 290(a) of title 14, United States Code, is amended to read as follows: ''Officers, other than the Commandant, serving for the time being or who have served in the grade of vice admiral or admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued at the grade of rear admiral.''.

(g) CLERICAL AMENDMENTS.—

(1) The section caption for section 47 of such title is amended to read as follows:

''§ 47. Vice commandant; appointment''.

(2) The section caption for section 52 of title 14, United States Code, is amended to read as follows:

''§ 52. Vice admirals and admiral, continuity of grade''.

(3) The table of contents for chapter 3 of such title is amended—

(A) by striking the item relating to section 47 and inserting the following:

''47. Vice Commandant; appointment.'';

(B) by striking the item relating to section 50a;

(C) by striking the item relating to section 50 and inserting the following:

''50. Vice admirals.''; and

(D) by striking the item relating to section 52 and inserting the following:

''52. Vice admirals and admiral, continuity of grade.''.

(h) TECHNICAL CORRECTION.—Section 47 of such title is further amended by striking ''subsection'' in the fifth sentence and inserting ''section''.

(i) TREATMENT OF INCUMBENTS; TRANSITION.—

(1) Notwithstanding any other provision of law, the officer who, on the date of enactment of this Act, is serving as Vice Commandant—

(A) shall continue to serve as Vice Commandant;

(B) shall have the grade of admiral with pay and allowances of that grade; and

(C) shall not be required to be reappointed by reason of the enactment of that Act.

(2) Notwithstanding any other provision of law, an officer who, on the date of enactment of this Act, is serving as Chief of Staff, Commander, Atlantic Area, or Commander, Pacific Area—

(A) shall continue to have the grade of vice admiral with pay and allowance of that grade until such time that the officer is relieved of his duties and appointed and confirmed to another position as a vice admiral or admiral; or

(B) for the purposes of transition, may continue at the grade of vice admiral with pay and allowance of that grade, for not more than 1 year after the date of enactment of this Act, to perform the duties of the officer's former position and any other such duties that the Commandant prescribes.

SEC. 302. NUMBER AND DISTRIBUTION OF COMMISSIONED OFFICERS ON THE ACTIVE DUTY PROMOTION LIST.

(a) IN GENERAL.—Section 42 of title 14, United States Code, is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 7,200. This total number may be temporarily increased up to 2 percent for no more than the 60 days that follow the commissioning of a Coast Guard Academy class.

''(b) The total number of commissioned officers authorized by this section shall be distributed in grade not to exceed the following percentages:

''(1) 0.375 percent for rear admiral.

''(2) 0.375 percent for rear admiral (lower half).

''(3) 6.0 percent for captain.

''(4) 15.0 percent for commander.

''(5) 22.0 percent for lieutenant commander.

The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as the needs of the Coast Guard require, reduce any of the percentages set forth in paragraphs (1) through (5) and apply that total percentage reduction to any other lower grade or combination of lower grades.

''(c) The Secretary shall, at least once a year, compute the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages of this section to the total number of commissioned officers listed on the current active duty promotion list. In making such calculations, any fraction shall be rounded to the nearest whole number. The number of commissioned officers on the active duty promotion list serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 324(d) of title 49, shall not be counted against the total number of commissioned officers authorized to serve in each grade.'';

(2) by striking subsection (e) and inserting the following:

''(e) The number of officers authorized to be serving on active duty in each grade of

the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.''; and

(3) by striking the caption of such section and inserting the following:

''§ 42. Number and distribution of commissioned officers on the active duty promotion list''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of such title is amended by striking the item relating to section 42 and inserting the following:

''42. Number and distribution of commissioned officers on the active duty promotion list''.

TITLE IV—PERSONNEL

SEC. 401. LEAVE RETENTION AUTHORITY.

Section 701(f)(2) of title 10, United States Code, is amended by inserting ''or a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288, 42 U.S.C. 5121 et seq.)'' after ''operation''.

SEC. 402. LEGAL ASSISTANCE FOR COAST GUARD RESERVISTS.

Section 1044(a)(4) of title 10, United States Code, is amended—

(1) by striking ''(as determined by the Secretary of Defense),'' and inserting ''(as determined by the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a service of the Navy),''; and

(2) by striking ''prescribed by the Secretary of Defense,'' and inserting ''prescribed by Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a service of the Navy,''.

SEC. 403. REIMBURSEMENT FOR CERTAIN MEDICAL-RELATED TRAVEL EXPENSES.

Section 1074i(a) of title 10, United States Code, is amended—

(1) by striking ''IN GENERAL.—In'' and inserting ''IN GENERAL.—(1) In''; and

(2) by adding at the end the following:

''(2) In any case in which a covered beneficiary resides on an INCONUS island that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider on the mainland who provides services less than 100 miles from the location in which the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary, and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age.''.

SEC. 404. RESERVE COMMISSIONED WARRANT OFFICER TO LIEUTENANT PROGRAM.

Section 214(a) of title 14, United States Code, is amended to read as follows:

''(a) The President may appoint temporary commissioned officers—

''(1) in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine; and

''(2) in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.''.

SEC. 405. ENHANCED STATUS QUO OFFICER PROMOTION SYSTEM.

(a) Section 253(a) of title 14, United States Code, is amended—

(1) by inserting ''and'' after ''considered,''; and

(2) by striking ''consideration, and the number of officers the board may recommend for promotion'' and inserting ''consideration''.

(b) Section 258 of such title is amended—

(1) by inserting ''(a)'' before ''The Secretary''; and

(2) by adding at the end the following:

''(b) In addition to the information provided pursuant to subsection (a), the Secretary may furnish the selection board—

''(1) specific direction relating to the needs of the service for officers having particular skills, including direction relating to the need for a minimum number of officers with particular skills within a specialty; and

''(2) such other guidance that the Secretary believes may be necessary to enable the board to properly perform its functions. Selections made based on the direction and guidance provided under this subsection shall not exceed the maximum percentage of officers who may be selected from below the announced promotion zone at any given selection board convened under section 251 of this title.''.

(c) Section 259(a) of such title is amended by striking ''board'' the second place it appears and inserting ''board, giving due consideration to the needs of the service for officers with particular skills so noted in the specific direction furnished pursuant to section 258 of this title,''.

(d) Section 260(b) of such title is amended by inserting ''to meet the needs of the service (as noted in the specific direction furnished the board under section 258 of this title)'' after ''qualified for promotion''.

SEC. 406. APPOINTMENT OF CIVILIAN COAST GUARD JUDGES.

Section 875 of the Homeland Security Act of 2002 (6 U.S.C. 455) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) APPOINTMENT OF JUDGES.—The Secretary may appoint civilian employees of the Department of Homeland Security as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals as provided for in section 866(a) of title 10, United States Code.''.

SEC. 407. COAST GUARD PARTICIPATION IN THE ARMED FORCES RETIREMENT HOME SYSTEM.

(a) ELIGIBILITY UNDER THE ARMED FORCES RETIREMENT HOME ACT.—Section 1502 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 401) is amended—

(1) by striking ''does not include the Coast Guard when it is not operating as a service of the Navy.'' in paragraph (4) and inserting ''has the meaning given such term in section 101(4) of title 10.'';

(2) by striking ''and'' in paragraph (5)(C);

(3) by striking ''Affairs.'' in paragraph (5)(D) and inserting ''Affairs; and'';

(4) by adding at the end of paragraph (5) the following:

''(E) the Assistant Commandant of the Coast Guard for Human Resources.''; and

(5) by adding at the end of paragraph (6) the following:

''(E) The Master Chief Petty Officer of the Coast Guard.''.

(b) DEDUCTIONS.—

(1) Section 2772 of title 10, United States Code, is amended—

(A) by striking ''of the military department'' in subsection (a);

(B) by striking ''Armed Forces Retirement Home Board'' in subsection (b) and inserting ''Chief Operating Officer of the Armed Forces Retirement Home''; and

(C) by striking subsection (c).

(2) Section 1007(i) of title 37, United States Code, is amended—

(A) by striking ''Armed Forces Retirement Home Board,'' in paragraph (3) and inserting ''Chief Operating Officer of the Armed Forces Retirement Home,''; and

(B) by striking ''does not include the Coast Guard when it is not operating as a service of the Navy.'' in paragraph (4) and inserting ''has the meaning given such term in section 101(4) of title 10.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first pay period beginning on or after January 1, 2010.

SEC. 408. CREW WAGES ON PASSENGER VESSELS.

(a) FOREIGN AND INTERCOASTAL VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10313(g) of title 46, United States Code, is amended—

(A) by striking ''When'' and inserting ''(1) Subject to paragraph (2), when''; and

(B) by adding at the end the following:

''(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed 10 times the unpaid wages that are the subject of the claims.

''(3) A class action suit for wages under this subsection must be commenced within 3 years after the later of—

''(A) the date of the end of the last voyage for which the wages are claimed; or

''(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.''.

(2) DEPOSITS.—Section 10315 of such title is amended by adding at the end the following:

''(f) DEPOSITS IN SEAMAN ACCOUNT.—By written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

''(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

''(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

''(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

''(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.''.

(b) COASTWISE VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10504(c) of such title is amended—

(A) by striking ''When'' and inserting ''(1) Subject to subsection (d), and except as provided in paragraph (2), when''; and

(B) by adding at the end the following:

''(2) The total amount required to be paid under paragraph (1) with respect to all

claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed 10 times the unpaid wages that are the subject of the claims.

''(3) A class action suit for wages under this subsection must be commenced within 3 years after the later of—

''(A) the date of the end of the last voyage for which the wages are claimed; or

''(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.''.

(2) DEPOSITS.—Section 10504 of such title is amended by adding at the end the following:

''(f) DEPOSITS IN SEAMAN ACCOUNT.—By written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

''(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

''(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

''(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

''(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.''.

SEC. 409. PROTECTION AND FAIR TREATMENT OF SEAFARERS.

(a) IN GENERAL.—Chapter 111 of title 46, United States Code, is amended by adding at the end the following new section:

''§ 11113. Protection and fair treatment of seafarers

''(a) PURPOSE.—The purpose of this section is to ensure the protection and fair treatment of seafarers.

''(b) FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a special fund known as the 'Support of Seafarers Fund'.

''(2) USE OF AMOUNTS IN FUND.—The amounts covered into the Fund shall be available to the Secretary, without further appropriation and without fiscal year limitation, to—

''(A) pay necessary support, pursuant to subsection (c)(1)(A) of this section; and

''(B) reimburse a shipowner for necessary support, pursuant to subsection (c)(1)(B) of this section.

''(3) AMOUNTS CREDITED TO FUND.—Notwithstanding any other provision of law, the Fund may receive—

''(A) any moneys ordered to be paid to the Fund in the form of community service pursuant to section 3563(b) of title 18;

''(B) amounts reimbursed or recovered pursuant to subsection (d) of this section;

''(C) amounts appropriated to the Fund pursuant to subsection (g) of this section; and

''(D) appropriations available to the Secretary for transfer.

''(4) PREREQUISITE FOR COMMUNITY SERVICE CREDITS.—The Fund may receive credits pursuant to paragraph (3)(A) of this subsection only when the unobligated balance of the Fund is less than $5,000,000.

''(5) REPORT REQUIRED.—

''(A) Except as provided in subparagraph (B) of this paragraph, the Secretary shall not obligate any amount in the Fund in a given fiscal year unless the Secretary has submitted to Congress, concurrent with the President's budget submission for that fiscal year, a report that describes—

''(i) the amounts credited to the Fund, pursuant to paragraph (3) of this subsection, for the preceding fiscal year;

''(ii) a detailed description of the activities for which amounts were charged; and

''(iii) the projected level of expenditures from the Fund for the coming fiscal year, based on—

''(I) on-going activities; and

''(II) new cases, derived from historic data.

''(B) The limitation in subparagraph (A) of this paragraph shall not apply to obligations during the first fiscal year during which amounts are credited to the Fund.

''(6) FUND MANAGER.—The Secretary shall designate a Fund manager, who shall—

''(A) ensure the visibility and accountability of transactions utilizing the Fund;

''(B) prepare the report required by paragraph (5); and

''(C) monitor the unobligated balance of the Fund and provide notice to the Secretary and the Attorney General whenever the unobligated balance of the Fund is less than $5,000,000.

''(c) IN GENERAL.—

''(1) AUTHORITY.—The Secretary is authorized—

''(A) to pay, in whole or in part, without further appropriation and without fiscal year limitation, from amounts in the Fund, necessary support of—

''(i) any seafarer who enters, remains, or has been paroled into the United States and is involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard; and

''(ii) any seafarer whom the Secretary finds to have been abandoned in the United States; and

''(B) to reimburse, in whole or in part, without further appropriation and without fiscal year limitation, from amounts in the Fund, a shipowner, who has filed a bond or surety satisfactory pursuant to subparagraph (A) and provided necessary support of a seafarer who has been paroled into the United States to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard, for costs of necessary support, when the Secretary deems reimbursement necessary to avoid serious injustice.

''(2) LIMITATION.—Nothing in this section shall be construed—

''(A) to create a right, benefit, or entitlement to necessary support; or

''(B) to compel the Secretary to pay, or reimburse the cost of, necessary support.

''(d) REIMBURSEMENTS; RECOVERY.—

''(1) IN GENERAL.—Any shipowner shall reimburse the Fund an amount equal to the total amount paid from the Fund for necessary support of the seafarer, plus a surcharge of 25 percent of such total amount if—

''(A)(i) the shipowner, during the course of an investigation, reporting, documentation, or adjudication of any matter that the Coast Guard referred to a United States Attorney or the Attorney General, fails to provide necessary support of a seafarer who has been paroled into the United States to facilitate the investigation, reporting, documentation, or adjudication; and

''(ii) a criminal penalty is subsequently imposed against the shipowner; or

''(B) the shipowner, under any circumstance, abandons a seafarer in the United States, as decided by the Secretary.

''(2) ENFORCEMENT.—If a shipowner fails to reimburse the Fund as required under paragraph (1) of this subsection, the Secretary may—

''(A) proceed in rem against any vessel of the shipowner in the Federal district court for the district in which such vessel is found; and

''(B) withhold or revoke the clearance, required by section 60105 of this title, of any vessel of the shipowner wherever such vessel is found.

''(3) Whenever clearance is withheld or revoked pursuant to paragraph (2)(B) of this subsection, clearance may be granted if the shipowner reimburses the Fund the amount required under paragraph (1) of this subsection.

''(e) SURETY; ENFORCEMENT OF TREATIES, LAWS, AND REGULATIONS.—

''(1) BOND AND SURETY AUTHORITY.—The Secretary is authorized to require a bond or surety satisfactory as an alternative to withholding or revoking clearance required under section 60105 of this title if, in the opinion of the Secretary, such bond or surety satisfactory is necessary to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard if the surety corporation providing the bond is authorized by the Secretary of the Treasury under section 9305 of title 31 to provide surety bonds under section 9304 of that title.

''(2) APPLICATION.—The authority to require a bond or a surety satisfactory or to request the withholding or revocation of the clearance required under section 60105 of this title applies to any investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard.

''(f) DEFINITIONS.—In this section:

''(1) ABANDONS; ABANDONED.—The term 'abandons' or 'abandoned' means a shipowner's unilateral severance of ties with a seafarer or the shipowner's failure to provide necessary support of a seafarer.

''(2) BOND OR SURETY SATISFACTORY.—The term 'bond or surety satisfactory' means a negotiated instrument, the terms of which may, at the discretion of the Secretary, include provisions that require the shipowner to—

''(A) provide necessary support of a seafarer who has or may have information pertinent to an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Secretary;

''(B) facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Secretary;

''(C) stipulate to certain incontrovertible facts, including, but not limited to, the ownership or operation of the vessel, or the authenticity of documents and things from the vessel;

''(D) facilitate service of correspondence and legal papers;

''(E) enter an appearance in United States district court;

''(F) comply with directions regarding payment of funds;

''(G) name an agent in the United States for service of process;

''(H) make stipulations as to the authenticity of certain documents in United States district court;

''(I) provide assurances that no discriminatory or retaliatory measures will be taken against a seafarer involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Secretary;

''(J) provide financial security in the form of cash, bond, or other means acceptable to the Secretary; and

''(K) provide for any other appropriate measures as the Secretary considers necessary to ensure the Government is not prejudiced by granting the clearance required by section 60105 of title 46.

''(3) FUND.—The term 'Fund' means the Support of Seafarers Fund, established pursuant to this section.

''(4) NECESSARY SUPPORT.—The term 'necessary support' means normal wages, lodging, subsistence, clothing, medical care (including hospitalization), repatriation, and any other expense the Secretary deems appropriate.

''(5) SEAFARER.—The term 'seafarer' means an alien crewman who is employed or engaged in any capacity on board a vessel subject to the jurisdiction of the United States.

''(6) SHIPOWNER.—The term 'shipowner' means the individual or entity that owns, has an ownership interest in, or operates a vessel subject to the jurisdiction of the United States.

''(7) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term 'vessel subject to the jurisdiction of the United States' has the same meaning it has in section 70502(c) of this title, except that it excludes a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when that vessel is engaged in commerce.

''(g) REGULATIONS.—The Secretary may prescribe regulations to implement this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $1,500,000 for each of fiscal years 2010, 2011, and 2012.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 111 of title 46, United States Code, is amended by adding at the end the following new item:

''11113. Protection and fair treatment of seafarers''.

TITLE V—ACQUISITION REFORM

SEC. 501. CHIEF ACQUISITION OFFICER.

(a) IN GENERAL.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following:

''§ 55. Chief Acquisition Officer

''(a) IN GENERAL.—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual's primary duty.

''(b) QUALIFICATIONS.—The Chief Acquisition Officer shall be an acquisition professional with a Level III certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent as—

''(1) the program executive officer;

''(2) the program manager of a Level 1 or Level 2 acquisition project or program;

''(3) the deputy program manager of a Level 1 or Level 2 acquisition; or

''(4) a combination of such positions.

''(c) FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.—The functions of the Chief Acquisition Officer include—

''(1) monitoring the performance of programs and projects on the basis of applicable performance measurements and advising the Commandant, through the chain of command, regarding the appropriate business strategy to achieve the missions of the Coast Guard;

''(2) maximizing the use of full and open competition at the prime contract and subcontract levels in the acquisition of property, capabilities, and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast Guard receives a sufficient number of competitive proposals from responsible sources to fulfill the Government's requirements, including performance and delivery schedules, at the lowest cost or best value considering the nature of the property or service procured;

''(3) making acquisition decisions in concurrence with the technical authority, or technical authorities, as appropriate, of the Coast Guard, as designated by the Commandant, consistent with all other applicable laws and decisions establishing procedures within the Coast Guard;

''(4) ensuring the use of detailed performance specifications in instances in which performance based contracting is used;

''(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

''(6) developing and maintaining an acquisition career management program in the Coast Guard to ensure that there is an adequate acquisition workforce;

''(7) assessing the requirements established for Coast Guard personnel regarding knowledge and skill in acquisition resources and management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

''(8) developing strategies and specific plans for hiring, training, and professional development; and

''(9) reporting to the Commandant, through the chain of command, on the progress made in improving acquisition management capability.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of title 14, United States Code, is amended by adding at the end the following:

''55. Chief Acquisition Officer''.

(c) SELECTION DEADLINE.—As soon as practicable after the date of enactment of this Act, but no later than October 1, 2011, the Commandant of the Coast Guard shall select a Chief Acquisition Officer under section 55 of title 14, United States Code.

SEC. 502. ACQUISITIONS.

(a) IN GENERAL.—Part I of title 14, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 15. ACQUISITIONS

''SUBCHAPTER 1—GENERAL PROVISIONS

''Sec.
''561. Acquisition directorate
''562. Senior acquisition leadership team
''563. Improvements in Coast Guard acquisition management
''564. Recognition of Coast Guard personnel for excellence in acquisition
''565. Prohibition on use of lead systems integrators
''566. Required contract terms
''567. Department of Defense consultation
''568. Undefinitized contractual actions

''SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

''Sec.
''571. Identification of major system acquisitions
''572. Acquisition
''573. Preliminary development and demonstration
''574. Acquisition, production, deployment, and support
''575. Acquisition program baseline breach

''SUBCHAPTER 3—DEFINITIONS

''Sec.
''581. Definitions

''SUBCHAPTER 1—GENERAL PROVISIONS

''§ 561. Acquisition directorate

''(a) ESTABLISHMENT.—The Commandant of the Coast Guard shall establish an acquisition directorate to provide guidance and oversight for the implementation and management of all Coast Guard acquisition processes, programs, and projects.

''(b) MISSION.—The mission of the acquisition directorate is—

''(1) to acquire and deliver assets and systems that increase operational readiness, enhance mission performance, and create a safe working environment; and

''(2) to assist in the development of a workforce that is trained and qualified to further the Coast Guard's missions and deliver the best value products and services to the Nation.

''§ 562. Senior acquisition leadership team

''(a) ESTABLISHMENT.—The Commandant shall establish a senior acquisition leadership team within the Coast Guard comprised of—

''(1) the Vice Commandant;

''(2) the Deputy and Assistant Commandants;

''(3) appropriate senior staff members of each Coast Guard directorate;

''(4) appropriate senior staff members for each assigned field activity or command; and

''(5) any other Coast Guard officer or employee designated by the Commandant.

''(b) FUNCTION.—The senior acquisition leadership team shall—

''(1) meet at the call of the Commandant at such places and such times as the Commandant may require;

''(2) provide advice and information on operational and performance requirements of the Coast Guard;

''(3) identify gaps and vulnerabilities in the operational readiness of the Coast Guard;

''(4) make recommendations to the Commandant and the Chief Acquisition Officer to remedy the identified gaps and vulnerabilities in the operational readiness of the Coast Guard; and

''(5) contribute to the development of a professional, experienced acquisition workforce by providing acquisition-experience tours of duty and educational development for officers and employees of the Coast Guard.

''§ 563. Improvements in Coast Guard acquisition management

''(a) PROJECT AND PROGRAM MANAGERS.—

''(1) PROJECT OR PROGRAM MANAGER DEFINED.—In this section, the term 'project or program manager' means an individual designated—

''(A) to develop, produce, and deploy a new asset to meet identified operational requirements; and

''(B) to manage cost, schedule, and performance of the acquisition or project or program.

''(2) LEVEL 1 PROJECTS.— An individual may not be assigned as the project or program manager for a Level 1 acquisition unless the individual holds a Level III acquisition certification as a program manager.

''(3) LEVEL 2 PROJECTS.—An individual may not be assigned as the project or program

manager for a Level 2 acquisition unless the individual holds a Level II acquisition certification as a program manager.

''(b) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM AND PROJECT MANAGERS.—Not later than one year after the date of enactment of the Coast Guard Authorization Act for Fiscal years 2010 and 2011, the Commandant shall issue guidance to address the qualifications, resources, responsibilities, tenure, and accountability of program and project managers for the management of acquisition programs and projects. The guidance shall address, at a minimum—

''(1) the qualifications required for project or program managers, including the number of years of acquisition experience and the professional training levels to be required of those appointed to project or program management positions; and

''(2) authorities available to project or program managers, including, to the extent appropriate, the authority to object to the addition of new program requirements that would be inconsistent with the parameters established for an acquisition program.

''(c) ACQUISITION WORKFORCE.—

''(1) IN GENERAL.—The Commandant shall designate a sufficient number of positions to be in the Coast Guard's acquisition workforce to perform acquisition-related functions at Coast Guard headquarters and field activities.

''(2) REQUIRED POSITIONS.—The Commandant shall ensure that members of the acquisition workforce have expertise, education, and training in at least 1 of the following acquisition career fields:

''(A) Acquisition logistics.

''(B) Auditing.

''(C) Business, cost estimating, and financial management.

''(D) Contracting.

''(E) Facilities engineering.

''(F) Industrial or contract property management.

''(G) Information technology.

''(H) Manufacturing, production, and quality assurance.

''(I) Program management.

''(J) Purchasing.

''(K) Science and technology.

''(L) Systems planning, research, development, and engineering.

''(M) Test and evaluation.

''(3) ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.—

''(A) IN GENERAL.—For purposes of sections 3304, 5333, and 5753 of title 5, the Commandant may—

''(i) designate any category of acquisition positions within the Coast Guard as shortage category positions; and

''(ii) use the authorities in such sections to recruit and appoint highly qualified person directly to positions so designated.

''(B) LIMITATION.—The Commandant may not appoint a person to a position of employment under this paragraph after September 30, 2012.

''(d) MANAGEMENT INFORMATION SYSTEM.—

''(1) IN GENERAL.—The Commandant shall establish a management information system capability to improve acquisition workforce management and reporting.

''(2) INFORMATION MAINTAINED.—Information maintained with such capability shall include the following standardized information on individuals assigned to positions in the workforce:

''(A) Qualifications, assignment history, and tenure of those individuals assigned to positions in the acquisition workforce or holding acquisition-related certifications.

''(B) Promotion rates for officers and members of the Coast Guard in the acquisition workforce.

''(e) CAREER PATHS.—To establish acquisition management as a core competency of the Coast Guard, the Commandant shall—

''(1) ensure that career paths for officers, members, and employees of the Coast Guard who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of those officers, members, and employees to the most senior positions in the acquisition workforce; and

''(2) publish information on such career paths.

''§ 564. Recognition of Coast Guard personnel for excellence in acquisition

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, the Commandant shall commence implementation of a program to recognize excellent performance by individuals and teams comprised of officers, members, and employees of the Coast Guard that contributed to the long-term success of a Coast Guard acquisition project or program.

''(b) ELEMENTS.—The program shall include—

''(1) specific award categories, criteria, and eligibility and manners of recognition;

''(2) procedures for the nomination by personnel of the Coast Guard of individuals and teams comprised of officers, members, and employees of the Coast Guard for recognition under the program; and

''(3) procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise and are appointed in such manner as the Commandant shall establish for the purposes of this program.

''(c) AWARD OF CASH BONUSES.—As part of the program required by subsection (a), the Commandant, subject to the availability of appropriations, may award to any civilian employee recognized pursuant to the program a cash bonus to the extent that the performance of such individual so recognized warrants the award of such bonus.

''§ 565. Prohibition on use of lead systems integrators

''(a) IN GENERAL.—

''(1) USE OF LEAD SYSTEMS INTEGRATOR.—Except as provided in subsection (b), the Commandant may not use a private sector entity as a lead systems integrator for an acquisition contract awarded or delivery order or task order issued after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.

''(2) FULL AND OPEN COMPETITION.—The Commandant and any lead systems integrator engaged by the Coast Guard, pursuant to the exceptions described in subsection (b), shall use full and open competition for any acquisition contract awarded after the date of enactment of that Act, unless otherwise excepted in accordance with the Competition in Contracting Act of 1984 (41 U.S.C. 251 note), the amendments made by that Act, and the Federal Acquisition Regulations.

''(3) NO EFFECT ON SMALL BUSINESS ACT.—Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided by and under the Small Business Act (15 U.S.C. 631 et seq.).

''(b) EXCEPTIONS.—

''(1) NATIONAL DISTRESS AND RESPONSE SYSTEM MODERNIZATION PROGRAM; NATIONAL SECURITY CUTTERS 2 AND 3.—Notwithstanding subsection (a), the Commandant may use a private sector entity as a lead systems integrator for the Coast Guard to complete the National Distress and Response System Modernization Program, the C4ISR projects directly related to the Integrated Deepwater Program, and National Security Cutters 2 and 3 if the Secretary of Homeland Security certifies that—

''(A) the acquisition is in accordance with the Competition in Contracting Act of 1984 (41 U.S.C. 251 note), the amendments made by that Act, and the Federal Acquisition Regulations; and

''(B) the acquisition and the use of a private sector entity as a lead systems integrator for the acquisition is in the best interest of the Federal Government.

''(2) TERMINATION DATE FOR EXCEPTIONS.—Except for the modification of delivery or task orders pursuant to Parts 4 and 42 of the Federal Acquisition Regulations, the Commandant may not use a private sector entity as a lead systems integrator after the earlier of—

''(A) September 30, 2012; or

''(B) the date on which the Commandant certifies in writing to the appropriate congressional committees that the Coast Guard has available and can retain sufficient contracting personnel and expertise within the Coast Guard, through an arrangement with other Federal agencies, or through contracts or other arrangements with private sector entities, to perform the functions and responsibilities of the lead system integrator in an efficient and cost-effective manner.

''§ 566. Required contract terms

''(a) IN GENERAL.—The Commandant shall ensure that a contract awarded or a delivery order or task order issued for an acquisition of a capability or an asset with an expected service life of 10 years and with a total acquisition cost that is equal to or exceeds $10,000,000 awarded or issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011—

''(1) provides that all certifications for an end-state capability or asset under such contract, delivery order, or task order, respectively, will be conducted by the Commandant or an independent third party, and that self-certification by a contractor or subcontractor is not allowed;

''(2) requires that the Commandant shall maintain the authority to establish, approve, and maintain technical requirements;

''(3) requires that any measurement of contractor and subcontractor performance be based on the status of all work performed, including the extent to which the work performed met all performance, cost, and schedule requirements;

''(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and assets for which compliance with TEMPEST certification is a requirement, the standard for determining such compliance will be the air, surface, or shore standard then used by the Department of the Navy for that type of capability or asset; and

''(5) for any contract awarded to acquire an Offshore Patrol Cutter, includes provisions specifying the service life, fatigue life, and days underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter will be built to achieve.

''(b) PROHIBITED CONTRACT PROVISIONS.—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 does not include any provision allowing for equitable adjustment that is not consistent with the Federal Acquisition Regulations.

''(c) INTEGRATED PRODUCT TEAMS.—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by officers, members, or employees of the Coast Guard.

''(d) DEEPWATER TECHNICAL AUTHORITIES.—The Commandant shall maintain or designate the technical authorities to establish, approve, and maintain technical requirements. Any such designation shall be made in writing and may not be delegated to the authority of the Chief Acquisition Officer established by section 55 of this title.

''§ 567. Department of Defense consultation

''(a) IN GENERAL.—The Commandant shall make arrangements as appropriate with the Secretary of Defense for support in contracting and management of Coast Guard acquisition programs. The Commandant shall also seek opportunities to make use of Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for assets acquired for the Coast Guard.

''(b) INTER-SERVICE TECHNICAL ASSISTANCE.—The Commandant shall seek to enter into a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to obtain the assistance of the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including the Navy Systems Command, with the oversight of Coast Guard major acquisition programs. The memorandum of understanding or memorandum of agreement shall, at a minimum, provide for—

''(1) the exchange of technical assistance and support that the Assistant Commandants for Acquisition, Human Resources, Engineering, and Information technology may identify;

''(2) the use, as appropriate, of Navy technical expertise; and

''(3) the exchange of personnel between the Coast Guard and the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including Naval Systems Commands, to facilitate the development of organic capabilities in the Coast Guard.

''(c) TECHNICAL REQUIREMENT APPROVAL PROCEDURES.—The Chief Acquisition Officer shall adopt, to the extent practicable, procedures modeled after those used by the Navy Senior Acquisition Official to approve all technical requirements.

''§ 568. Undefinitized contractual actions

''(a) IN GENERAL.—The Coast Guard may not enter into an undefinitized contractual action unless such action is directly approved by the Head of Contracting Activity of the Coast Guard.

''(b) REQUESTS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—Any request to the Head of Contracting Activity for approval of an undefinitized contractual action shall include a description of the anticipated effect on requirements of the Coast Guard if a delay is incurred for the purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

''(c) REQUIREMENTS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—

''(1) DEADLINE FOR AGREEMENT ON TERMS, SPECIFICATIONS, AND PRICE.—A contracting officer of the Coast Guard may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specification, and price by the earlier of—

''(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

''(B) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

''(2) LIMITATION ON OBLIGATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the contracting officer for an undefinitized contractual action may not obligate under such contractual action an amount that exceeds 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), if a contractor submits a qualifying proposal to definitize an undefinitized contractual action before an amount that exceeds 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that exceeds 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

''(3) WAIVER.—The Commandant may waive the application of this subsection with respect to a contract if the Commandant determines that the waiver is necessary to support—

''(A) a contingency operation (as that term is defined in section 101(a)(13) of title 10);

''(B) operations to prevent or respond to a transportation security incident (as defined in section 70101(6) of title 46);

''(C) an operation in response to an emergency that poses an unacceptable threat to human health or safety or to the marine environment; or

''(D) an operation in response to a natural disaster or major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

''(4) LIMITATION ON APPLICATION.—This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

''(d) INCLUSION OF NONURGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action by the Coast Guard for spare parts and support equipment that are needed on an urgent basis unless the Commandant approves such inclusion as being—

''(1) good business practice; and

''(2) in the best interests of the United States.

''(e) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the Commandant approves such modification as being—

''(1) good business practice; and

''(2) in the best interests of the United States.

''(f) ALLOWABLE PROFIT.—The Commandant shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

''(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

''(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

''(g) DEFINITIONS.—In this section:

''(1) UNDEFINITIZED CONTRACTUAL ACTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'undefinitized contractual action' means a new procurement action entered into by the Coast Guard for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action.

''(B) EXCLUSION.—The term 'undefinitized contractual action' does not include contractual actions with respect to—

''(i) foreign military sales;

''(ii) purchases in an amount not in excess of the amount of the simplified acquisition threshold; or

''(iii) special access programs.

''(2) QUALIFYING PROPOSAL.—The term 'qualifying proposal' means a proposal that contains sufficient information to enable complete and meaningful audits of the information contained in the proposal as determined by the contracting officer.

''SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

''§ 571. Identification of major system acquisitions

''(a) IN GENERAL.—

''(1) SUPPORT MECHANISMS.—The Commandant shall develop and implement mechanisms to support the establishment of mature and stable operational requirements for acquisitions under this subchapter.

''(2) MISSION ANALYSIS; AFFORDABILITY ASSESSMENT.—The Commandant may not initiate a Level 1 or Level 2 acquisition project or program until the Commandant—

''(A) completes a mission analysis that—

''(i) identifies any gaps in capability; and

''(ii) develops a clear mission need; and

''(B) prepares a preliminary affordability assessment for the project or program.

''(b) ELEMENTS.—

''(1) REQUIREMENTS.—The mechanisms required by subsection (a) shall ensure the implementation of a formal process for the development of a mission-needs statement, concept-of-operations document, capability development plan, and resource proposal for the initial project or program funding, and shall ensure the project or program is included in the Coast Guard Capital Investment Plan.

''(2) ASSESSMENT OF TRADE-OFFS.—In conducting an affordability assessment under subsection (a)(2)(B), the Commandant shall develop and implement mechanisms to ensure that trade-offs among cost, schedule, and performance are considered in the establishment of preliminary operational requirements for development and production of new assets and capabilities for Level 1 and Level 2 acquisitions projects and programs.

''(c) HUMAN RESOURCE CAPITAL PLANNING.—The Commandant shall develop staffing predictions, define human capital performance initiatives, and identify preliminary training needs for any such project or program.

''(d) DHS ACQUISITION APPROVAL.—A Level 1 or Level 2 acquisition project or program may not be implemented unless it is approved by the Department of Homeland Security Acquisition Review Board or the Joint Review Board.

''§ 572. Acquisition

''(a) IN GENERAL.—The Commandant may not establish a Level 1 or Level 2 acquisition project or program approved under section 571(d) until the Commandant—

''(1) clearly defines the operational requirements for the project or program;

''(2) establishes the feasibility of alternatives;

''(3) develops an acquisition project or program baseline;

''(4) produces a life-cycle cost estimate; and

''(5) assesses the relative merits of alternatives to determine a preferred solution in accordance with the requirements of this section.

''(b) ANALYSIS OF ALTERNATIVES.—

''(1) IN GENERAL.—The Commandant shall conduct an analysis of alternatives for the asset or capability to be acquired in an analyze and select phase of the acquisition process.

''(2) REQUIREMENTS.—The analysis of alternatives shall be conducted by a federally funded research and development center, a qualified entity of the Department of Defense, or a similar independent third party entity that has appropriate acquisition expertise and has no substantial financial interest in any part of the acquisition project or program that is the subject of the analysis. At a minimum, the analysis of alternatives shall include—

''(A) an assessment of the technical maturity, and technical and other risks;

''(B) an examination of capability, interoperability, and other disadvantages;

''(C) an evaluation of whether different combinations or quantities of specific assets or capabilities could meet the Coast Guard's overall performance needs;

''(D) a discussion of key assumptions and variables, and sensitivity to change in such assumptions and variables;

''(E) when an alternative is an existing asset or prototype, an evaluation of relevant safety and performance records and costs;

''(F) a calculation of life-cycle costs including—

''(i) an examination of likely research and development costs and the levels of uncertainty associated with such estimated costs;

''(ii) an examination of likely production and deployment costs and levels of uncertainty associated with such estimated costs;

''(iii) an examination of likely operating and support costs and the levels of uncertainty associated with such estimated costs;

''(iv) if they are likely to be significant, an examination of likely disposal costs and the levels of uncertainty associated with such estimated costs; and

''(v) such additional measures as the Commandant or the Secretary of Homeland Security determines to be necessary for appropriate evaluation of the asset; and

''(G) the business case for each viable alternative.

''(c) TEST AND EVALUATION MASTER PLAN.—

''(1) IN GENERAL.—For any Level 1 or Level 2 acquisition project or program the Chief Acquisition Officer shall approve a test and evaluation master plan specific to the acquisition project or program for the capability, asset, or subsystems of the capability or asset and intended to minimize technical, cost, and schedule risk as early as practicable in the development of the project or program.

''(2) TEST AND EVALUATION STRATEGY.—The master plan shall—

''(A) set forth an integrated test and evaluation strategy that will verify that capability-level or asset-level and subsystem-level design and development, including performance and supportability, have been sufficiently proven before the capability, asset, or subsystem of the capability or asset is approved for production; and

''(B) require that adequate developmental tests and evaluations and operational tests and evaluations established under subparagraph (A) are performed to inform production decisions.

''(3) OTHER COMPONENTS OF THE MASTER PLAN.—At a minimum, the master plan shall identify—

''(A) the key performance parameters to be resolved through the integrated test and evaluation strategy;

''(B) critical operational issues to be assessed in addition to the key performance parameters;

''(C) specific development test and evaluation phases and the scope of each phase;

''(D) modeling and simulation activities to be performed, if any, and the scope of such activities;

''(E) early operational assessments to be performed, if any, and the scope of such assessments;

''(F) operational test and evaluation phases;

''(G) an estimate of the resources, including funds, that will be required for all test, evaluation, assessment, modeling, and simulation activities; and

''(H) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.

''(4) UPDATE.—The Chief Acquisition Officer shall approve an updated master plan whenever there is a revision to project or program test and evaluation strategy, scope, or phasing.

''(5) LIMITATION.—The Coast Guard may not—

''(A) proceed beyond that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the master plan is approved by the Chief Acquisition Officer; or

''(B) award any production contract for a capability, asset, or subsystem for which a master plan is required under this subsection before the master plan is approved by the Chief Acquisition Officer.

''(d) LIFE-CYCLE COST ESTIMATES.—

''(1) IN GENERAL.—The Commandant shall implement mechanisms to ensure the development and regular updating of life-cycle cost estimates for each Level 1 or Level 2 acquisition to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets.

''(2) TYPES OF ESTIMATES.—In addition to life-cycle cost estimates that may be developed by acquisition program offices, the Commandant shall require that an independent life-cycle cost estimate be developed for each Level 1 or Level 2 acquisition project or program.

''(3) REQUIRED UPDATES.—For each Level 1 or Level 2 acquisition project or program the Commandant shall require that life-cycle cost estimates shall be updated before each milestone decision is concluded and the project or program enters a new acquisition phase.

''(e) DHS ACQUISITION APPROVAL.—A project or program may not enter the obtain phase under section 573 unless the Department of Homeland Security Acquisition Review Board or the Joint Review Board (or other entity to which such responsibility is delegated by the Secretary of Homeland Security) has approved the analysis of alternatives for the project. The Joint Review Board may also approve the low rates initial production quantity for the project or program if such an initial production quantity is planned by the acquisition project or program and deemed appropriate by the Joint Review Board.

''§ 573. Preliminary development and demonstration

''(a) IN GENERAL.—The Commandant shall ensure that developmental test and evaluation, operational test and evaluation, life cycle cost estimates, and the development and demonstration requirements are met to confirm that the projects or programs meet the requirements described in the mission-needs statement and the operational-requirements document and the following development and demonstration objectives:

''(1) To demonstrate that the most promising design, manufacturing, and production solution is based upon a stable, producible, and cost-effective product design.

''(2) To ensure that the product capabilities meet contract specifications, acceptable operational performance requirements, and system security requirements.

''(3) To ensure that the product design is mature enough to commit to full production and deployment.

''(b) TESTS AND EVALUATIONS.—

''(1) IN GENERAL.—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations and operational tests and evaluations of a capability or asset and the subsystems of the capability or asset for which a master plan has been prepared under section 572(c)(1).

''(2) USE OF THIRD PARTIES.—The Commandant shall ensure that the Coast Guard uses independent third parties with expertise in testing and evaluating the capabilities or assets and the subsystems of the capabilities or assets being acquired to conduct developmental tests and evaluations and operational tests and evaluations whenever the Coast Guard lacks the capability to conduct the tests and evaluations required by a master plan.

''(3) COMMUNICATION OF SAFETY CONCERNS.—The Commandant shall require that safety concerns identified during developmental or operational tests and evaluations or through independent or Government-conducted design assessments of capabilities or assets and subsystems of capabilities or assets to be acquired by the Coast Guard shall be communicated as soon as practicable, but not later than 30 days after the completion of the test or assessment event or activity that identified the safety concern, to the program manager for the capability or asset and the subsystems concerned and to the Chief Acquisition Officer.

''(4) ASSET ALREADY IN LOW, INITIAL, OR FULL-RATE PRODUCTION.—If operational test and evaluation on a capability or asset already in low, initial, or full-rate production identifies a safety concern with the capability or asset or any subsystems of the capability or asset not previously identified during developmental or operational test and evaluation, the Commandant shall—

''(A) notify the program manager and the Chief Acquisition Officer of the safety concern as soon as practicable, but not later than 30 days after the completion of the test and evaluation event or activity that identified the safety concern; and

''(B) notify the Chief Acquisition Officer and include in such notification—

''(i) an explanation of the actions that will be taken to correct or mitigate the safety concern in all capabilities or assets and subsystems of the capabilities or assets yet to be produced, and the date by which those actions will be taken;

''(ii) an explanation of the actions that will be taken to correct or mitigate the safety concern in previously produced capabilities or assets and subsystems of the capabilities or assets, and the date by which those actions will be taken; and

''(iii) an assessment of the adequacy of current funding to correct or mitigate the safety concern in capabilities or assets and subsystems of the capabilities or assets and in previously produced capabilities or assets and subsystems.

''(c) TECHNICAL CERTIFICATION.—

''(1) IN GENERAL.—The Commandant shall ensure that any Level 1 or Level 2 acquisition project or program is certified by the technical authority of the Coast Guard after review by an independent third party with capabilities in the mission area, asset, or particular asset component.

''(2) TEMPEST TESTING.—The Commandant shall—

''(A) cause all electronics on all aircraft, surface, and shore assets that require TEMPEST certification and that are delivered after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 to be tested in accordance with

master plan standards and communications security standards by an independent third party that is authorized by the Federal Government to perform such testing; and

''(B) certify that the assets meet all applicable TEMPEST requirements.

''(3) VESSEL CLASSIFICATION.—The Commandant shall cause each cutter, other than the National Security Cutter, acquired by the Coast Guard and delivered after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 is to be classed by the American Bureau of Shipping before final acceptance.

''(d) ACQUISITION DECISION.—The Commandant may not proceed to full scale production, deployment, and support of a Level 1 or Level 2 acquisition project or program unless the Department of Homeland Security Acquisition Review Board has verified that the delivered asset or system meets the project or program performance and cost goals.

''§ 574. Acquisition, production, deployment, and support

''(a) IN GENERAL.—The Commandant shall—

''(1) ensure there is a stable and efficient production and support capability to develop an asset or system;

''(2) conduct follow on testing to confirm and monitor performance and correct deficiencies; and

''(3) conduct acceptance tests and trails upon the delivery of each asset or system to ensure the delivered asset or system achieves full operational capability.

''(b) ELEMENTS.—The Commandant shall—

''(1) execute the productions contracts;

''(2) ensure the delivered products meet operational cost and schedules requirements established in the acquisition program baseline;

''(3) validate manpower and training requirements to meet system needs to operate, maintain, support, and instruct the system; and

''(4) prepare a project or program transition plan to enter into programmatic sustainment, operations, and support.

''§ 575. Acquisition program baseline breach

''(a) IN GENERAL.—The Commandant shall submit a report to the appropriate congressional committees as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

''(1) a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;

''(2) a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or

''(3) an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.

''(b) CONTENT.—The report submitted under subsection (a) shall include—

''(1) a detailed description of the breach and an explanation of its cause;

''(2) the projected impact to performance, cost, and schedule;

''(3) an updated acquisition program baseline and the complete history of changes to the original acquisition program baseline;

''(4) the updated acquisition schedule and the complete history of changes to the original schedule;

''(5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;

''(6) a remediation plan identifying corrective actions and any resulting issues or risks; and

''(7) a description of how progress in the remediation plan will be measured and monitored.

''(c) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 25 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written certification, with a supporting explanation, that—

''(1) the capability or asset or capability or asset class to be acquired under the project or program is essential to the accomplishment of Coast Guard missions;

''(2) there are no alternatives to such capability or asset or capability or asset class which will provide equal or greater capability in both a more cost-effective and timely manner;

''(3) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

''(4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

''SUBCHAPTER 3—DEFINITIONS

''§ 581. Definitions

''In this chapter:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.

''(2) CHIEF ACQUISITION OFFICER.—The term 'Chief Acquisition Officer' means the officer appointed under section 55 of this title.

''(3) COMMANDANT.—The term 'Commandant' means the Commandant of the Coast Guard.

''(4) JOINT REVIEW BOARD.—The term 'Joint Review Board' means the Department of Homeland Security's Investment Review Board, Joint Requirements Council, or other entity within the Department designated by the Secretary as the Joint Review Board for purposes of this chapter.

''(5) LEVEL 1 ACQUISITION.—The term 'Level 1 acquisition' means—

''(A) an acquisition by the Coast Guard—

''(i) the estimated life-cycle costs of which exceed $1,000,000,000; or

''(ii) the estimated total acquisition costs of which exceed $300,000,000; or

''(B) any acquisition that the Chief Acquisition Officer of the Coast Guard determines to have a special interest—

''(i) due to—

''(I) the experimental or technically immature nature of the asset;

''(II) the technological complexity of the asset;

''(III) the commitment of resources; or

''(IV) the nature of the capability or set of capabilities to be achieved; or

''(ii) because such acquisition is a joint acquisition.

''(6) LEVEL 2 ACQUISITION.—The term 'Level 2 acquisition' means an acquisition by the Coast Guard—

''(A) the estimated life-cycle costs of which are equal to or less than $1,000,000,000, but greater than $300,000,000; or

''(B) the estimated total acquisition costs of which are equal to or less than $300,000,0000, but greater than $100,000,000.

''(7) LIFE-CYCLE COST.—The term 'life-cycle cost' means all costs for development, procurement, construction, and operations and support for a particular capability or asset, without regard to funding source or management control.

''(8) SAFETY CONCERN.—The term 'safety concern' means any hazard associated with a capability or asset or a subsystem of a capability or asset that is likely to cause serious bodily injury or death to a typical Coast Guard user in testing, maintaining, repairing, or operating the capability, asset, or subsystem or any hazard associated with the capability, asset, or subsystem that is likely to cause major damage to the capability, asset, or subsystem during the course of its normal operation by a typical Coast Guard user.''.

(b) CONFORMING AMENDMENT.—The part analysis for part I of title 14, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''15. Acquisitions .....561''.

SEC. 503. REPORT AND GUIDANCE ON EXCESS PASS-THROUGH CHARGES.

(a) COMPTROLLER GENERAL REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall issue a report on pass-through charges on contracts, subcontracts, delivery orders, and task orders that were executed by a lead systems integrator under contract to the Coast Guard during the 3 full calendar years preceding the date of enactment of this Act.

(2) MATTERS COVERED.—The report under this subsection—

(A) shall assess the extent to which the Coast Guard paid excessive pass-through charges to contractors or subcontractors that provided little or no value to the performance of a contract or the production of a procured asset; and

(B) shall assess the extent to which the Coast Guard has been particularly vulnerable to excessive pass-through charges on any specific category of contracts or by any specific category of contractors.

(b) GUIDANCE REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commandant shall prescribe guidance to ensure that pass-through charges on contracts, subcontracts, delivery orders, and task orders that are executed with a private entity acting as a lead systems integrator by or on behalf of the Coast Guard are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. The guidance shall, at a minimum—

(A) set forth clear standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

(B) set forth procedures for preventing the payment by the Government of excessive pass-through charges; and

(C) identify any exceptions determined by the Commandant to be in the best interest of the Government.

(2) SCOPE OF GUIDANCE.—The guidance prescribed under this subsection—

(A) shall not apply to any firm, fixed-price contract or subcontract, delivery order, or task order that is—

(i) awarded on the basis of adequate price competition, as determined by the Commandant; or

(ii) for the acquisition of a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

(B) may include such additional exceptions as the Commandant determines to be necessary in the interest of the United States.

(c) EXCESSIVE PASS-THROUGH CHARGE DEFINED.—In this section the term ''excessive pass-through charge'', with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is

for overhead or profit on work performed by a lower-tier contractor or subcontractor, other than reasonable charges for the direct costs of managing lower-tier contractors and subcontracts and overhead and profit based on such direct costs.

(d) APPLICATION OF GUIDANCE.—The guidance prescribed under this section shall apply to contracts awarded to a private entity acting as a lead systems integrator by or on behalf of the Coast Guard on or after the date that is 360 days after the date of enactment of this Act.

TITLE VI—SHIPPING AND NAVIGATION

SEC. 601. TECHNICAL AMENDMENTS TO CHAPTER 313 OF TITLE 46, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 313 of title 46, United States Code, is amended—

(1) by striking ''of Transportation'' in sections 31302, 31306, 31321, 31330, and 31343 each place it appears;

(2) by striking ''and'' after the semicolon in section 31301(5)(F);

(3) by striking ''office.'' in section 31301(6) and inserting ''office; and''; and

(4) by adding at the end of section 31301 the following:

''(7) 'Secretary' means the Secretary of the Department of Homeland Security, unless otherwise noted.''.

(b) SECRETARY AS MORTGAGEE.—Section 31308 of such title is amended by striking ''When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary'' and inserting ''The Secretary of Commerce or Transportation, as a mortgagee under this chapter,''.

(c) SECRETARY OF TRANSPORTATION.—Section 31329(d) of such title is amended by striking ''Secretary.'' and inserting ''Secretary of Transportation.''.

(d) MORTGAGEE.—

(1) Section 31330(a)(1) of such title, as amended by subsection (a)(1) of this section, is amended—

(A) by inserting ''or'' after the semicolon in subparagraph (B);

(B) by striking ''Secretary; or'' in subparagraph (C) and inserting ''Secretary.''; and

(C) by striking subparagraph (D).

(2) Section 31330(a)(2) is amended—

(A) by inserting ''or'' after the semicolon in subparagraph (B);

(B) by striking ''faith; or'' in subparagraph (C) and inserting ''faith.''; and

(C) by striking subparagraph (D).

SEC. 602. CLARIFICATION OF RULEMAKING AUTHORITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by adding at the end the following:

''§ 70122. Regulations

''Unless otherwise provided, the Secretary may issue regulations necessary to implement this chapter.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 701 of such title is amended by adding at the end the following new item:

''70122. Regulations''.

SEC. 603. ICEBREAKERS.

(a) ANALYSES.—Not later than 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess polar ice-breaking mission requirements, whichever occurs later, the Commandant of the Coast Guard shall require a nongovernmental, independent third party (other than the National Academy of Sciences) which has extensive experience in the analysis of military procurements to—

(1) conduct a comparative cost-benefit analysis, taking into account future Coast Guard budget projections (which assume Coast Guard budget growth of no more than inflation) and other recapitalization needs, of—

(A) rebuilding, renovating, or improving the existing fleet of polar icebreakers for operation by the Coast Guard,

(B) constructing new polar icebreakers for operation by the Coast Guard,

(C) construction of new polar icebreakers by the National Science Foundation for operation by the Foundation,

(D) rebuilding, renovating, or improving the existing fleet of polar icebreakers by the National Science Foundation for operation by the Foundation, and

(E) any combination of the activities described in subparagraph (A), (B), (C), or (D) to carry out the missions of the Coast Guard and the National Science Foundation;

(2) conduct an analysis of the impact on mission capacity and the ability of the United States to maintain a presence in the polar regions through the year 2020 if recapitalization of the polar icebreaker fleet, either by constructing new polar icebreakers or rebuilding, renovating, or improving the existing fleet of polar icebreakers, is not fully funded; and

(3) conduct a comprehensive analysis of the impact on all Coast Guard activities, including operations, maintenance, procurements, and end strength, of the acquisition of polar icebreakers described in paragraph (1) by the Coast Guard or the National Science Foundation assuming that total Coast Guard funding will not increase more than the annual rate of inflation.

(b) REPORTS TO CONGRESS.—

(1) Not later than one year and 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess polar ice-breaking mission requirements, whichever occurs later, the Commandant of the Coast Guard shall submit a report containing the results of the study, together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(2) Not later than 1 year after the date of enactment of this Act, the Commandant shall submit reports containing the results of the analyses required under paragraphs (1) and (2) of subsection (a), together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 604. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.

Section 705 of the Security and Accountability for Every Port Act of 2006 (Public Law 109–347; 120 Stat. 1945) is amended to read as follows:

''SEC. 705. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.

''(a) IN GENERAL.—Notwithstanding section 12111(d) of title 46, United States Code, a foreign-flag vessel may be chartered by, or on behalf of, a lessee to be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit that is located over the Outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)) for operations in support of exploration, or flow-testing and stimulation of wells, for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska—

''(1) until December 31, 2012, if the Secretary of Transportation determines, after publishing notice in the Federal Register, that insufficient vessels documented under section 12111(d) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations; and

''(2) for an additional 2-year period beginning January 1, 2013, if the Secretary of Transportation determines—

''(A) that, as of December 31, 2012, the lessee has entered into a binding agreement to employ a suitable vessel or vessels to be documented under such section 12111(d) in sufficient numbers and with sufficient suitability to replace any foreign-flag vessel or vessels operating under this section; and

''(B) after publishing notice in the Federal Register, that insufficient vessels documented under such section 12111(d) are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations.

''(b) LESSEE DEFINED.—In this section, the term 'lessee' means the holder of a lease (defined in section 2(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(c)), who has entered into a binding agreement to employ a suitable vessel documented or to be documented under section 12111(d) of title 46, United States Code.

''(c) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to authorize employment in the coastwise trade of a vessel that does not meet the requirements set forth in section 12112 of title 46, United States Code.''.

TITLE VII—VESSEL CONVEYANCE

SEC. 701. SHORT TITLE.

This title may be cited as the ''Vessel Conveyance Act''.

SEC. 702. CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES.

(a) IN GENERAL.—Whenever the transfer of ownership of a Coast Guard vessel to an eligible entity for use for educational, cultural, historical, charitable, recreational, or other public purposes is authorized by law, the Coast Guard shall transfer the vessel to the General Services Administration for conveyance to the eligible entity.

(b) CONDITIONS OF CONVEYANCE.—The General Services Administration may not convey a vessel to an eligible entity as authorized by law unless the eligible entity agrees—

(1) to provide the documentation needed by the General Services Administration to process a request for aircraft or vessels under section 102.37.225 of title 41, Code of Federal Regulations;

(2) to comply with the special terms, conditions, and restrictions imposed on aircraft and vessels under section 102–37.460 of such title;

(3) to make the vessel available to the United States Government if it is needed for use by the Commandant of the Coast Guard in time of war or a national emergency; and

(4) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from use of the vessel by the United States Government under paragraph (3).

(c) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means a State or local government, nonprofit corporation, educational agency, community development organization, or other entity that agrees to comply with the conditions established under this section.

TITLE VIII—OIL POLLUTION PREVENTION

SEC. 801. RULEMAKINGS.

(a) STATUS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of all Coast Guard rulemakings required (but for which no final rule has been issued as of the date of enactment of this Act) under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(2) INFORMATION REQUIRED.—The Secretary shall include in the report required in paragraph (1)—

(A) a detailed explanation with respect to each such rulemaking as to—

(i) what steps have been completed;

(ii) what areas remain to be addressed; and

(iii) the cause of any delays; and

(B) the date by which a final rule may reasonably be expected to be issued.

(b) FINAL RULES.—The Secretary shall issue a final rule in each pending rulemaking described in subsection (a) as soon as practicable, but in no event later than 18 months after the date of enactment of this Act.

(c) TOWING VESSELS.—No later than 1 year after the date of enactment of this Act, the Secretary shall issue a notice of proposed rulemaking regarding inspection requirements for towing vessels required under section 3306(j) of title 46, United States Code. The Secretary shall issue a final rule pursuant to that rulemaking no later than 2 years after the date of enactment of this Act.

SEC. 802. OIL TRANSFERS FROM VESSELS.

(a) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations to reduce the risks of oil spills in operations involving the transfer of oil from or to a tank vessel. The regulations—

(1) shall focus on operations that have the highest risks of discharge, including operations at night and in inclement weather;

(2) shall consider—

(A) requirements for the use of equipment, such as putting booms in place for transfers, safety, and environmental impacts;

(B) operational procedures such as manning standards, communications protocols, and restrictions on operations in high-risk areas; or

(C) both such requirements and operational procedures; and

(3) shall take into account the safety of personnel and effectiveness of available procedures and equipment for preventing or mitigating transfer spills.

(b) APPLICATION WITH STATE LAWS.—The regulations promulgated under subsection (a) do not preclude the enforcement of any State law or regulation the requirements of which are at least as stringent as requirements under the regulations (as determined by the Secretary) that—

(1) applies in State waters;

(2) does not conflict with, or interfere with the enforcement of, requirements and operational procedures under the regulations; and

(3) has been enacted or promulgated before the date of enactment of this Act.

SEC. 803. IMPROVEMENTS TO REDUCE HUMAN ERROR AND NEAR MISS INCIDENTS.

(a) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure that, using available data—

(1) identifies the types of human errors that, combined, account for over 50 percent of all oil spills involving vessels that have been caused by human error in the past 10 years;

(2) identifies the most frequent types of near-miss oil spill incidents involving vessels such as collisions, allisions, groundings, and loss of propulsion in the past 10 years;

(3) describes the extent to which there are gaps in the data with respect to the information required under paragraphs (1) and (2) and explains the reason for those gaps; and

(4) includes recommendations by the Secretary to address the identified types of errors and incidents to address any such gaps in the data.

(b) MEASURES.—Based on the findings contained in the report required by subsection (a), the Secretary shall take appropriate action, both domestically and at the International Maritime Organization, to reduce the risk of oil spills caused by human error.

(c) CONFIDENTIALITY OF VOLUNTARILY SUBMITTED INFORMATION.—The identity of a person making a voluntary disclosure under this section, and any information obtained from any such voluntary disclosure, shall be treated as confidential.

(d) DISCOVERY OF VOLUNTARILY SUBMITTED INFORMATION.—

(1) IN GENERAL.—Except as provided in this subsection, a party in a judicial proceeding may not use discovery to obtain information or data collected or received by the Secretary for use in the report required in subsection (a).

(2) EXCEPTION.—

(A) Notwithstanding paragraph (1), a court may allow discovery by a party in a judicial proceeding of information or data described in paragraph (1) if, after an in camera review of the information or data, the court decides that there is a compelling reason to allow the discovery.

(B) When a court allows discovery in a judicial proceeding as permitted under this paragraph, the court shall issue a protective order—

(i) to limit the use of the information or data to the judicial proceeding; and

(ii) to prohibit dissemination of the information or data to any person who does not need access to the information or data for the proceeding.

(C) A court may allow information or data it has decided is discoverable under this paragraph to be admitted into evidence in a judicial proceeding only if the court places the information or data under seal to prevent the use of the information or data for a purpose other than for the proceeding.

(3) APPLICATION.—Paragraph (1) shall not apply to—

(A) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

(B) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

SEC. 804. OLYMPIC COAST NATIONAL MARINE SANCTUARY.

(a) OLYMPIC COAST NATIONAL MARINE SANCTUARY AREA TO BE AVOIDED.—The Secretary of the Department in which the Coast Guard is operating and the Under Secretary of Commerce for Oceans and Atmosphere shall revise the area to be avoided off the coast of the State of Washington so that restrictions apply to all vessels required to prepare a response plan pursuant to section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) (other than fishing or research vessels while engaged in fishing or research within the area to be avoided).

SEC. 805. PREVENTION OF SMALL OIL SPILLS.

The Under Secretary of Commerce for Oceans and Atmosphere, in consultation with the Secretary of the Department in which the Coast Guard is operating and other appropriate agencies, shall establish an oil spill prevention and education program for small vessels. The program shall provide for assessment, outreach, and training and voluntary compliance activities to prevent and improve the effective response to oil spills from vessels and facilities not required to prepare a vessel response plan under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including recreational vessels, commercial fishing vessels, marinas, and aquaculture facilities. The Under Secretary may provide grants to sea grant colleges and institutes designated under section 207 of the National Sea Grant College Program Act (33 U.S.C. 1126) and to State agencies, tribal governments, and other appropriate entities to carry out—

(1) regional assessments to quantify the source, incidence and volume of small oil spills, focusing initially on regions in the country where, in the past 10 years, the incidence of such spills is estimated to be the highest;

(2) voluntary, incentive-based clean marina programs that encourage marina operators, recreational boaters, and small commercial vessel operators to engage in environmentally sound operating and maintenance procedures and best management practices to prevent or reduce pollution from oil spills and other sources;

(3) cooperative oil spill prevention education programs that promote public understanding of the impacts of spilled oil and provide useful information and techniques to minimize pollution, including methods to remove oil and reduce oil contamination of bilge water, prevent accidental spills during maintenance and refueling and properly cleanup and dispose of oil and hazardous substances; and

(4) support for programs, including outreach and education to address derelict vessels and the threat of such vessels sinking and discharging oil and other hazardous substances, including outreach and education to involve efforts to the owners of such vessels.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Commerce for Oceans and Atmosphere to carry out this section, $10,000,000 for each of fiscal years 2010 through 2014.

SEC. 806. IMPROVED COORDINATION WITH TRIBAL GOVERNMENTS.

(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall complete the development of a tribal consultation policy, which recognizes and protects to the maximum extent practicable tribal treaty rights and trust assets in order to improve the Coast Guard's consultation and coordination with the tribal governments of federally recognized Indian tribes with respect to oil spill prevention, preparedness, response and natural resource damage assessment.

(b) INCLUSION OF TRIBAL GOVERNMENT.—The Secretary of the Department in which the Coast Guard is operating shall ensure that, as soon as practicable after identifying an oil spill that is likely to have a significant impact on natural or cultural resources owned or directly utilized by a federally recognized Indian tribe, the Coast Guard will—

(1) ensure that representatives of the tribal government of the affected tribes are included as part of the incident command system established by the Coast Guard to respond to the spill;

(2) share information about the oil spill with the tribal government of the affected tribe; and

(3) to the extent practicable, involve tribal governments in deciding how to respond to the spill.

(c) COOPERATIVE ARRANGEMENTS.—The Coast Guard may enter into memoranda of

agreement and associated protocols with Indian tribal governments in order to establish cooperative arrangements for oil pollution prevention, preparedness, and response. Such memoranda may be entered into prior to the development of the tribal consultation and coordination policy to provide Indian tribes grant and contract assistance. Such memoranda of agreement and associated protocols with Indian tribal governments may include—

(1) arrangements for the assistance of the tribal government to participate in the development of the National Contingency Plan and local Area Contingency Plans to the extent they affect tribal lands, cultural and natural resources;

(2) arrangements for the assistance of the tribal government to develop the capacity to implement the National Contingency Plan and local Area Contingency Plans to the extent they affect tribal lands, cultural and natural resources;

(3) provisions on coordination in the event of a spill, including agreements that representatives of the tribal government will be included as part of the regional response team co-chaired by the Coast Guard and the Environmental Protection Agency to establish policies for responding to oil spills;

(4) arrangements for the Coast Guard to provide training of tribal incident commanders and spill responders for oil spill preparedness and response;

(5) demonstration projects to assist tribal governments in building the capacity to protect tribal treaty rights and trust assets from oil spills; and

(6) such additional measures the Coast Guard determines to be necessary for oil pollution prevention, preparedness, and response.

(d) FUNDING FOR TRIBAL PARTICIPATION.—Subject to the availability of appropriations, the Commandant of the Coast Guard shall provide assistance to participating tribal governments in order to facilitate the implementation of cooperative arrangements under subsection (c) and ensure the participation of tribal governments in such arrangements. There are authorized to be appropriated to the Commandant $500,000 for each of fiscal years 2010 through 2014 to be used to carry out this section.

SEC. 807. REPORT ON AVAILABILITY OF TECHNOLOGY TO DETECT THE LOSS OF OIL.

Within 1 year after the date of enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the availability, feasibility, and potential cost of technology to detect the loss of oil carried as cargo or as fuel on tank and non-tank vessels greater than 400 gross tons.

SEC. 808. USE OF OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

''(B) not more than $15,000,000 in each fiscal year shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred by, and activities related to, response and damage assessment capabilities of the National Oceanic and Atmospheric Administration;''.

(b) AUDITS; ANNUAL REPORTS.—Section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712) is amended—

(1) by striking subsection (g) and inserting the following:

''(g) AUDITS.—

'''(1) IN GENERAL.—The Comptroller General of the United States shall conduct an audit, including a detailed accounting of each disbursement from the Fund in excess of $500,000 that is—

''(A) disbursed by the National Pollution Fund Center; and

''(B) administered and managed by the receiving Federal agencies, including final payments made to agencies and contractors and, to the extent possible, subcontractors.

''(2) FREQUENCY.—The audits shall be conducted—

''(A) at least once every 3 years after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 until 2016; and

''(B) at least once every 5 years after the last audit conducted under subparagraph (A).

''(3) SUBMISSION OF RESULTS.—The Comptroller shall submit the results of each audit conducted under paragraph (1) to—

''(A) the Senate Committee on Commerce, Science, and Transportation;

''(B) the House of Representatives Committee on Transportation and Infrastructure; and

''(C) the Secretary or Administrator of each agency referred to in paragraph (1)(B).''; and

(2) by adding at the end thereof the following:

''(h) REPORTS.—

''(1) IN GENERAL.—Within one year after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, and annually thereafter, the President, through the Secretary of the Department in which the Coast Guard is operating, shall—

''(A) provide a report on disbursements for the preceding fiscal year from the Fund, regardless of whether those disbursements were subject to annual appropriations, to—

''(i) the Senate Committee on Commerce, Science, and Transportation; and

''(ii) the House of Representatives Committee on Transportation and Infrastructure: and

''(B) make the report available to the public on the National Pollution Funds Center Internet website.

''(2) CONTENTS.—The report shall include—

''(A) a list of each disbursement of $250,000 or more from the Fund during the preceding fiscal year; and

''(B) a description of how each such use of the Fund meets the requirements of subsection (a).

''(3) AGENCY RECORDKEEPING.—Each Federal agency that receives amounts from the Fund shall maintain records describing the purposes for which such funds were obligated or expended in such detail as the Secretary may require for purposes of the report required under paragraph (1).

''(i) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsections (g) and (h).''.

SEC. 809. INTERNATIONAL EFFORTS ON ENFORCEMENT.

The Secretary, in consultation with the heads of other appropriate Federal agencies, shall ensure that the Coast Guard pursues stronger enforcement in the International Maritime Organization of agreements related to oil discharges, including joint enforcement operations, training, and stronger compliance mechanisms.

SEC. 810. HIGHER VOLUME PORT AREA REGULATORY DEFINITION CHANGE.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Commandant shall initiate a rulemaking proceeding to modify the definition of the term ''higher volume port area'' in section 155.1020 of the Coast Guard regulations (33 C.F.R. 155.1020) by striking ''Port Angeles, WA'' in paragraph (13) of that section and inserting ''Cape Flattery, WA''.

(b) EMERGENCY RESPONSE PLAN REVIEWS.—Within 5 years after the date of enactment of this Act, the Coast Guard shall complete its review of any changes to emergency response plans under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) resulting from the modification of the higher volume port area definition required by subsection (a).

SEC. 811. TUG ESCORTS FOR LADEN OIL TANKERS.

(a) COMPARABILITY ANALYSIS.—

(1) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Commandant, in consultation with the Secretary of State, shall enter into negotiations with the Government of Canada to update the comparability analysis which serves as the basis for the Cooperative Vessel Traffic Service agreement between the United States and Canada for the management of maritime traffic in Puget Sound, the Strait of Georgia, Haro Strait, Rosario Strait, and the Strait of Juan de Fuca. The updated analysis shall, at a minimum, consider—

(A) requirements for laden tank vessels to be escorted by tug boats;

(B) vessel emergency response towing capability at the entrance to the Strait of Juan de Fuca; and

(C) spill response capability throughout the shared water, including oil spill response planning requirements for vessels bound for one nation transiting in innocent passage through the waters of the other nation.

(2) CONSULTATION REQUIREMENT.—In conducting the analysis required under this subsection, the Commandant shall consult with the State of Washington and affected tribal governments.

(3) RECOMMENDATIONS.—Within 18 months after the date of enactment of this Act, the Commandant shall submit recommendations based on the analysis required under this subsection to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The recommendations shall consider a full range of options for the management of maritime traffic, including Federal legislation, promulgation of Federal rules, and the establishment of cooperative agreements for shared funding of spill prevention and response systems.

(b) DUAL ESCORT VESSELS FOR DOUBLE HULLED TANKERS IN PRINCE WILLIAM SOUND, ALASKA.—

(1) IN GENERAL.—Section 4116(c) of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(A) by striking ''Not later than 6 months after the date of the enactment of this Act, the'' and inserting ''(1) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(2) PRINCE WILLIAM SOUND, ALASKA.—

''(A) IN GENERAL.—The requirement in paragraph (1) relating to single hulled tankers in Prince William Sound, Alaska, described in that paragraph being escorted by at least 2 towing vessels or other vessels considered to be appropriate by the Secretary (including regulations promulgated in accordance with section 3703(a)(3) of title 46, United States Code, as set forth in part 168 of title 33, Code of Federal Regulations (as in effect on March 1, 2009) implementing this subsection with respect to those tankers) shall apply to double hulled tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska.

''(B) IMPLEMENTATION OF REQUIREMENTS.—The Secretary of the Federal agency with jurisdiction over the Coast Guard shall carry out subparagraph (A) by order without notice and hearing pursuant to section 553 of title 5 of the United States Code.''.

(2) EFFECTIVE DATE.—The amendments made by subsection (b) take effect on the date that is 90 days after the date of enactment of this Act.

(c) PRESERVATION OF STATE AUTHORITY.—Nothing in this Act or in any other provision of Federal law related to the regulation of maritime transportation of oil shall affect, or be construed or interpreted as preempting, the laws or regulations of any State or political subdivision thereof in effect on the date of enactment of this Act which require the escort by one or more tugs of laden oil tankers in the areas other than Prince William Sound which are specified in section 4116(c) of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note).

SEC. 812. EXTENSION OF FINANCIAL RESPONSIBILITY.

Section 1016(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(a)) is amended—

(1) by striking ''or'' after the semicolon in paragraph (1);

(2) by inserting ''or'' after the semicolon in paragraph (2); and

(3) by inserting after paragraph (2) the following:

''(3) any tank vessel over 100 gross tons (except a non-self-propelled vessel that does not carry oil as cargo) using any place subject to the jurisdiction of the United States;''.

SEC. 813. OIL SPILL LIABILITY TRUST FUND INVESTMENT AMOUNT.

Within 30 days after the date of enactment of this Act, the Secretary of the Treasury shall increase the amount invested in income producing securities under section 5006(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2736(b)) by $12,851,340.

SEC. 814. LIABILITY FOR USE OF SINGLE-HULL VESSELS.

Section 1001(32)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)(A)) is amended by inserting ''In the case of a vessel, the term 'responsible party' also includes the owner of oil being transported in a tank vessel with a single hull after December 31, 2010 (other than a vessel described in section 3703a(b)(3) of title 46, United States Code).'' after ''vessel.''.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. VESSEL DETERMINATION.

(a) VESSELS DEEMED TO BE NEW VESSELS.—The vessel with United States official number 981472 and the vessel with United States official number 988333 shall each be deemed to be a new vessel effective upon the date of delivery after January 1, 2008, from a privately-owned United States shipyard if no encumbrances are on record with the United States Coast Guard at the time of the issuance of the new vessel certificate of documentation for such vessel

(b) SAFETY INSPECTION.—Each vessel shall be subject to the vessel safety and inspection requirements of title 46, United States Code, applicable to any such vessel as of the day before the date of enactment of this Act.

SEC. 902. CONVEYANCE OF THE PRESQUE ISLE LIGHT STATION FRESNEL LENS TO PRESQUE ISLE TOWNSHIP, MICHIGAN.

(a) CONVEYANCE OF LENS AUTHORIZED.—

(1) TRANSFER OF POSSESSION.—Notwithstanding any other provision of law, the Commandant of the Coast Guard may transfer to Presque Isle Township, a township in Presque Isle County in the State of Michigan (in this section referred to as the ''Township''), possession of the Historic Fresnel Lens (in this section referred to as the ''Lens'') from the Presque Isle Light Station Lighthouse, Michigan (in this section referred to as the ''Lighthouse'').

(2) CONDITION.—As a condition of the transfer of possession authorized by paragraph (1), the Township shall, not later than one year after the date of transfer, install the Lens in the Lighthouse for the purpose of operating the Lens and Lighthouse as a Class I private aid to navigation pursuant to section 85 of title 14, United States Code, and the applicable regulations under that section.

(3) CONVEYANCE OF LENS.—Upon the certification of the Commandant that the Township has installed the Lens in the Lighthouse and is able to operate the Lens and Lighthouse as a private aid to navigation as required by paragraph (2), the Commandant shall convey to the Township all right, title, and interest of the United States in and to the Lens.

(4) CESSATION OF UNITED STATES OPERATIONS OF AIDS TO NAVIGATION AT LIGHTHOUSE.—Upon the making of the certification described in paragraph (3), all active Federal aids to navigation located at the Lighthouse shall cease to be operated and maintained by the United States.

(b) REVERSION.—

(1) REVERSION FOR FAILURE OF AID TO NAVIGATION.—If the Township does not comply with the condition set forth in subsection (a)(2) within the time specified in that subsection, the Township shall, except as provided in paragraph (2), return the Lens to the Commandant at no cost to the United States and under such conditions as the Commandant may require.

(2) EXCEPTION FOR HISTORICAL PRESERVATION.—Notwithstanding the lack of compliance of the Township as described in paragraph (1), the Township may retain possession of the Lens for installation as an artifact in, at, or near the Lighthouse upon the approval of the Commandant. The Lens shall be retained by the Township under this paragraph under such conditions for the preservation and conservation of the Lens as the Commandant shall specify for purposes of this paragraph. Installation of the Lens under this paragraph shall occur, if at all, not later than two years after the date of the transfer of the Lens to the Township under subsection (a)(1).

(3) REVERSION FOR FAILURE OF HISTORICAL PRESERVATION.—If retention of the Lens by the Township is authorized under paragraph (2) and the Township does not install the Lens in accordance with that paragraph within the time specified in that paragraph, the Township shall return the lens to the Coast Guard at no cost to the United States and under such conditions as the Commandant may require.

(c) CONVEYANCE OF ADDITIONAL PERSONAL PROPERTY.—

(1) TRANSFER AND CONVEYANCE OF PERSONAL PROPERTY.—Notwithstanding any other provision of law, the Commandant may transfer to the Township any additional personal property of the United States related to the Lens that the Commandant considers appropriate for conveyance under this section. If the Commandant conveys the Lens to the Township under subsection (a)(3), the Commandant may convey to the Township any personal property previously transferred to the Township under this subsection.

(2) REVERSION.—If the Lens is returned to the Coast Guard pursuant to subsection (b), the Township shall return to the Coast Guard all personal property transferred or conveyed to the Township under this subsection except to the extent otherwise approved by the Commandant.

(d) CONVEYANCE WITHOUT CONSIDERATION.—The conveyance of the Lens and any personal property under this section shall be without consideration.

(e) DELIVERY OF PROPERTY.—The Commandant shall deliver property conveyed under this section—

(1) at the place where such property is located on the date of the conveyance;

(2) in condition on the date of conveyance; and

(3) without cost to the United States.

(f) MAINTENANCE OF PROPERTY.—As a condition of the conveyance of any property to the Township under this section, the Commandant shall enter into an agreement with the Township under which the Township agrees—

(1) to operate the Lens as a Class I private aid to navigation under section 85 of title 14, United States Code, and application regulations under that section; and

(2) to hold the United States harmless for any claim arising with respect to personal property conveyed under this section.

(g) LIMITATION ON FUTURE CONVEYANCE.—The instruments providing for the conveyance of property under this section shall—

(1) require that any further conveyance of an interest in such property may not be made without the advance approval of the Commandant; and

(2) provide that, if the Commandant determines that an interest in such property was conveyed without such approval—

(A) all right, title, and interest in such property shall revert to the United States, and the United States shall have the right to immediate possession of such property; and

(B) the recipient of such property shall pay the United States for costs incurred by the United States in recovering such property.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Commandant may require such additional terms and conditions in connection with the conveyances authorized by this section as the Commandant considers appropriate to protect the interests of the United States.

SEC. 903. LAND CONVEYANCE, COAST GUARD PROPERTY IN MARQUETTE COUNTY, MICHIGAN, TO THE CITY OF MARQUETTE, MICHIGAN.

(a) CONVEYANCE AUTHORIZED.—The Commandant of the Coast Guard may convey, without consideration, to the City of Marquette, Michigan (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, located in Marquette County, Michigan, that is under the administrative control of the Coast Guard, consists of approximately 5.5 acres, and is commonly identified as Coast Guard Station Marquette and Lighthouse Point.

(b) RETENTION OF CERTAIN EASEMENTS.—In conveying the property under subsection (a), the Commandant of the Coast Guard may retain such easements over the property as the Commandant considers appropriate for access to aids to navigation.

(c) LIMITATIONS.—The property to be conveyed by subsection (a) may not be conveyed under that subsection until—

(1) the Coast Guard has relocated Coast Guard Station Marquette to a newly constructed station;

(2) any environmental remediation required under Federal law with respect to the property has been completed; and

(3) the Commandant of the Coast Guard determines that retention of the property by the United States is not required to carry out Coast Guard missions or functions.

(d) CONDITIONS OF TRANSFER.—All conditions placed within the deed of title of the property to be conveyed under subsection (a) shall be construed as covenants running with the land.

(e) INAPPLICABILITY OF SCREENING OR OTHER REQUIREMENTS.—The conveyance of property authorized by subsection (a) shall be made without regard to the following:

(1) Section 2696 of title 10, United States Code.

(2) Chapter 5 of title 40, United States Code.

(3) Any other provision of law relating to the screening, evaluation, or administration of excess or surplus Federal property prior to conveyance by the Administrator of General Services.

(f) EXPIRATION OF AUTHORITY.—The authority in subsection (a) shall expire on the date that is five years after the date of the enactment of this Act.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Commandant of the Coast Guard. The cost of the survey shall be borne by the United States.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Commandant of the Coast Guard may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

SEC. 904. OFFSHORE SUPPLY VESSELS.

(a) REMOVAL OF TONNAGE LIMITS.—

(1) DEFINITION.—

(A) Section 2101(19) of title 46, United States Code, is amended by striking ''of more than 15 gross tons but less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

(B) EXEMPTION.—Section 5209(b)(1) of the Oceans Act of 1992 (Public Law 102–587; 46 U.S.C. 2101 note) is amended by striking ''vessel.'' and inserting ''vessel of less than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of such title as prescribed by the Secretary under section 14104 of such title.''.

(2) APPLICATION.—Section 3702(b) of title 46, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) SCALE OF EMPLOYMENT: ABLE SEAMEN.—Section 7312(d) of title 46, United States Code, is amended to read as follows:

''(d) Individuals qualified as able seamen—offshore supply vessels under section 7310 of this title may constitute all of the able seamen required on board a vessel of less than 500 gross tons as measured under section 14502 of this title or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title engaged in support of exploration, exploitation, or production of offshore mineral or energy resources. Individuals qualified as able seamen—limited under section 7308 of this title may constitute all of the able seamen required on board a vessel of at least 500 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title engaged in support of exploration, exploitation, or production of offshore mineral or energy resources.''.

(c) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(b) of title 46, United States Code, is amended to read as follows:

''(b)(1) An offshore supply vessel of less than 500 gross tons as measured under section 14502 of this title or 6,000 gross tons as measured under section 14302 of this title on a voyage of less than 600 miles shall have a licensed mate. If the vessel is on a voyage of at least 600 miles, however, the vessel shall have 2 licensed mates.

''(2) An offshore supply vessel shall have at least one mate. Additional mates on an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title shall be prescribed in accordance with hours of service requirements (including recording and record keeping of that service) prescribed by the Secretary.

''(3) An offshore supply vessel of more than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, may not be operated without a licensed engineer.''.

(d) WATCHES.—Section 8104(g) of title 46, United States Code, is amended—

(1) by inserting ''(1)'' after ''(g)''; and

(2) by adding at the end the following:

''(2) Paragraph (1) applies to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title if the individuals engaged on the vessel are in compliance with hours of service requirements (including recording and record-keeping of that service) as prescribed by the Secretary.''.

(e) OIL FUEL TANK PROTECTION.—

(1) APPLICATION.—An offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title that is constructed under a contract entered into after the date of enactment of this Act, or that is delivered after August 1, 2010, with an aggregate capacity of 600 cubic meters or more of oil fuel, shall comply with the requirements of Regulation 12A under Annex I to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, entitled *Oil Fuel Tank Protection*, regardless of whether such vessel is engaged in the coastwise trade or on an international voyage.

(2) DEFINITION.—In this subsection the term ''oil fuel'' means any oil used as fuel in connection with the propulsion and auxiliary machinery of the vessel in which such oil is carried.

(f) REGULATIONS.—

(1) IN GENERAL.—Not later than January 1, 2012, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations to implement the amendments and authorities enacted by this section for offshore supply vessels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels. The final rule issued pursuant to such rulemaking may supersede the interim final rule promulgated under paragraph (2) of this subsection. In promulgating regulations under this subsection, the Secretary shall take into consideration the characteristics of offshore supply vessels, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources.

(2) INTERIM FINAL RULE AUTHORITY.—As soon as is practicable and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, the Secretary shall issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) for offshore supply vessels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels.

(3) INTERIM PERIOD.—After the effective date of this Act, prior to the effective date of the regulations prescribed by paragraph (2) of this subsection, and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, and the offshore supply vessel tonnage limits of applicable regulations and policy guidance promulgated prior to the date of enactment of this Act, the Secretary may—

(A) issue a certificate of inspection under section 3309 of title 46, United States Code, to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title if the Secretary determines that such vessel's arrangements and equipment meet the current Coast Guard requirements for certification as a cargo and miscellaneous vessel; and

(B) authorize a master, mate or engineer who possesses an ocean or near coastal license under part 10 of subchapter B of title 46, Code of Federal Regulations, (or any successor regulation) which qualifies the licensed officer for service on offshore supply vessels of more than 3,000 gross tons, as measured under section 14302 of title 46, United States Code, to operate offshore supply vessels of 6,000 gross tons or greater, as measured under such section.

SEC. 905. ASSESSMENT OF CERTAIN AIDS TO NAVIGATION AND TRAFFIC FLOW.

(a) INFORMATION ON USAGE.—Within 60 days after the date of enactment of this Act, the Commandant of the Coast Guard shall—

(1) determine the types and numbers of vessels typically transiting or utilizing that portion of the Atlantic Intracoastal Waterway beginning at a point that is due East of the outlet of the Cutler Drain Canal C-100 in Dade County, Florida, and ending at the Dade County line, during a period of 30 days; and

(2) provide the information on usage compiled under this subsection to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(b) ASSESSMENT OF CERTAIN AIDS TO NAVIGATION.—Within 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall—

(1) review and assess the buoys, markers, and other aids to navigation in and along that portion of the Atlantic Intracoastal Waterway specified in subsection (a), to determine the adequacy and sufficiency of such aids, and the need to replace such aids, install additional aids, or both; and

(2) submit a report on the assessment required by this section to the committees.

(c) SUBMISSION OF PLAN.—Within 180 days after the date of enactment of this Act, the Commandant shall submit a plan to the committees to address the needs identified under subsection (b).

SEC. 906. ALTERNATIVE LICENSING PROGRAM FOR OPERATORS OF UNINSPECTED PASSENGER VESSELS ON LAKE TEXOMA IN TEXAS AND OKLAHOMA.

(a) IN GENERAL.—Upon the request of the Governor of the State of Texas or the Governor of the State of Oklahoma, the Secretary of the department in which the Coast Guard is operating shall enter into an agreement with the Governor of the State whereby the State shall license operators of uninspected passenger vessels operating on Lake Texoma in Texas and Oklahoma in lieu of the Secretary issuing the license pursuant to section 8903 of title 46, United States Code, and the regulations issued thereunder, but only if the State plan for licensing the operators of uninspected passenger vessels—

(1) meets the equivalent standards of safety and protection of the environment as those contained in subtitle II of title 46, United States Code, and regulations issued thereunder;

(2) includes—
(A) standards for chemical testing for such operators;
(B) physical standards for such operators;
(C) professional service and training requirements for such operators; and
(D) criminal history background check for such operators;
(3) provides for the suspension and revocation of State licenses;
(4) makes an individual, who is ineligible for a license issued under title 46, United States Code, ineligible for a State license; and
(5) provides for a report that includes—
(A) the number of applications that, for the preceding year, the State rejected due to failure to—
(i) meet chemical testing standards;
(ii) meet physical standards;
(iii) meet professional service and training requirements; and
(iv) pass criminal history background check for such operators;
(B) the number of licenses that, for the preceding year, the State issued;
(C) the number of license investigations that, for the preceding year, the State conducted;
(D) the number of licenses that, for the preceding year, the State suspended or revoked, and the cause for such suspensions or revocations; and
(E) the number of injuries, deaths, collisions, and loss or damage associated with uninspected passenger vessels operations that, for the preceding year, the State investigated.
(b) ADMINISTRATION.—
(1) The Governor of the State may delegate the execution and enforcement of the State plan, including the authority to license and the duty to report information pursuant to subsection (a), to any subordinate State officer. The Governor shall provide, to the Secretary, written notice of any delegation.
(2) The Governor (or the Governor's designee) shall provide written notice of any amendment to the State plan no less than 45 days prior to the effective date of such amendment.
(3) At the request of the Secretary, the Governor of the State (or the Governor's designee) shall grant, on a biennial basis, the Secretary access to State records and State personnel for the purpose of auditing State execution and enforcement of the State plan.
(c) APPLICATION.—
(1) The requirements of section 8903 of title 46, United States Code, and the regulations issued thereunder shall not apply to any person operating under the authority of a State license issued pursuant to an agreement under this section.
(2) The State shall not compel a person, operating under the authority of a license issued either by another State, pursuant to a valid agreement under this section, or by the Secretary, pursuant to section 8903 of title 46, United States Code, to—
(A) hold a license issued by the State, pursuant to an agreement under this section; or
(B) pay any fee, associated with licensing, because the person does not hold a license issued by the State, pursuant to an agreement under this section.

Nothing in this paragraph shall limit the authority of the State to impose requirements or fees for privileges, other than licensing, that are associated with the operation of uninspected passenger vessels on Lake Texoma.

(3) For the purpose of enforcement, if an individual is issued a license—
(A) by a State, pursuant to an agreement entered into under to this section, or
(B) by the Secretary, pursuant to section 8903 of title 46, United States Code,

then the individual shall be entitled to lawfully operate an uninspected passenger vessel on Lake Texoma in Texas and Oklahoma without further requirement to hold an additional operator's license.
(d) TERMINATION.—
(1) If—
(A) the Secretary finds that the State plan for the licensing the operators of uninspected passenger vessels—
(i) does not meet the equivalent standards of safety and protection of the environment as those contained in subtitle II of title 46, United States Code, and regulations issued thereunder,
(ii) does not include—
(I) standards for chemical testing for such operators,
(II) physical standards for such operators,
(III) professional service and training requirements for such operators, or
(IV) background and criminal investigations for such operators,
(iii) does not provide for the suspension and revocation of State licenses, or
(iv) does not make an individual, who is ineligible for a license issued under title 46, United States Code, ineligible for a State license, or
(B) the Governor (or the Governor's designee) fails to report pursuant to subsection (b),

the Secretary shall terminate the agreement authorized by this section, if the Secretary provides written notice to the Governor of the State 60 days in advance of termination. The findings of fact and conclusions of the Secretary, if based on a preponderance of the evidence, shall be conclusive.
(2) The Governor of the State may terminate the agreement authorized by this section, if the Governor provides written notice to the Secretary 60 days in advance of the termination date.
(e) EXISTING AUTHORITY.—Nothing in this section shall affect or diminish the authority or jurisdiction of any Federal or State officer to investigate, or require reporting of, marine casualties.
(f) UNINSPECTED PASSENGER VESSEL DEFINED.—In this section the term ''uninspected passenger vessel'' has the meaning that term has in section 2101(42)(B) of title 46, United States Code.

TITLE X—BUDGETARY EFFECTS

SEC. 1001. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 3913. Mr. WHITEHOUSE (for Mr. GREGG) proposed an amendment to the resolution S. Res. 480, condemning the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and calling on the military regime in Burma to permit a credible and fair election process and the transition to civilian, democratic rule; as follows:

On page 2, beginning on line 7, strike ''the National League for Democracy and other opposition groups,'' and insert ''all political groups and individuals dedicated to democratic ideals,''.

On page 3, beginning on line 9, strike ''(including the People's Republic of China, the Association of Southeast Asian Nations, and the United Nations Security Council)'' and insert '', as appropriate, in order''.

On page 3, line 17, strike ''the National League for Democracy and''.

SA 3914. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 539, strike line 14 and all that follows through page 541, line 24, and insert the following:

''(33) MAJOR SWAP PARTICIPANT.—
''(A) IN GENERAL.—The term 'major swap participant' means any person who is not a swap dealer, and—
''(i)(I) maintains a substantial net position in swaps for any of the major swap categories as determined by the Commission, excluding—
''(aa) positions held for hedging or mitigating commercial risk, including operating risk and balance sheet risk, of such person or its affiliates; and
''(bb) positions maintained by any employee benefit plan (or any contract held by such a plan) as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) for the primary purpose of hedging or mitigating any risk directly associated with the operation of the plan; and
''(II) whose outstanding swaps create substantial net counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or
''(ii)(I) is a financial entity, other than an entity predominantly engaged in providing customer financing for the purchase of an affiliate's merchandise or manufactured goods, that is highly leveraged relative to the amount of capital it holds;
''(II) maintains a substantial net position in outstanding swaps in any major swap category as determined by the Commission; and
''(III) whose outstanding swaps create substantial net counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets.
''(B) DEFINITION OF SUBSTANTIAL NET POSITION.—For purposes of subparagraph (A), the Commission shall define by rule or regulation the term 'substantial net position' to mean a position after application of legally enforceable netting or collateral arrangements that meets a threshold the Commission determines to be prudent for the effective monitoring, management, and oversight of entities that are systemically important or can significantly impact the financial system of the United States.
''(C) SCOPE OF DESIGNATION.—For purposes of subparagraph (A), a person may be designated as a major swap participant for 1 or more categories of swaps without being classified as a major swap participant for all classes of swaps.
''(D) CAPITAL.—In setting capital requirements for a person that is designated as a major swap participant for a single type or single class or category of swaps or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in by

virtue of the status of the person as a major swap participant.'';

SA 3915. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 555, strike line 16 and all that follows through page 557, line 2, and insert the following:

''(49) SWAP DEALER.—

''(A) IN GENERAL.—The term 'swap dealer' means any person who—

''(i) holds itself out as a dealer in swaps;

''(ii) makes a market in swaps;

''(iii) regularly engages in the purchase and sale of swaps to customers as its ordinary course of business; and

''(iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps.

''(B) INCLUSION.—A person may be designated as a swap dealer for a single type or single class or category of swap or activities and considered not to be a swap dealer for other types, classes, or categories of swaps or activities.

''(C) CAPITAL.—In setting capital requirements for a person that is designated as a swap dealer for a single type or single class or category of swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in by virtue of the status of the person as a swap dealer.

''(D) EXCEPTION.—The term 'swap dealer' does not include a person that buys or sells swaps for such person's own account, either individually or in a fiduciary capacity, or on behalf of any affiliates of such person, unless it does so as a market maker and as a part of a regular business.

SA 3916. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail,'' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 566, strike line 8 and all that follows through page 584, line 7, and insert the following:

(3) MANDATORY CLEARING OF SWAPS.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by inserting after subsection (g) (as redesignated by paragraph (1)(B)) the following:

''(h) CLEARING REQUIREMENT.—

''(1) OPEN ACCESS.—The rules of a registered derivatives clearing organization shall—

''(A) prescribe that all swaps with the same terms and conditions are economically equivalent and may be offset with each other within the derivatives clearing organization; and

''(B) provide for nondiscriminatory clearing of a swap executed bilaterally or on or through the rules of an unaffiliated designated contract market or swap execution facility, subject to the requirements of section 5(b).

''(2) SWAPS SUBJECT TO MANDATORY CLEARING REQUIREMENT.—

''(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall, jointly with the Securities and Exchange Commission and the Federal Reserve Board of Governors, adopt rules to establish criteria for determining that a swap or group, category, type, or class of swap is required to be cleared.

''(B) FACTORS.—In carrying out subparagraph (A), the following factors shall be considered:

''(i) Whether 1 or more derivatives clearing organizations or clearing agencies accepts the swap or group, category, type, or class of swap for clearing.

''(ii) Whether the swap or group, category, type, or class of swap is traded pursuant to standard documentation and terms.

''(iii) The liquidity of the swap or group, category, type, or class of swap and its underlying commodity, security, security of a reference entity, or group or index thereof.

''(iv) The ability to value the swap or group, category, type, or class of swap and its underlying commodity, security, security of a reference entity, or group or index thereof consistent with an accepted pricing methodology, including the availability of intraday prices.

''(v) The size of the market for the swap or group, category, type, or class of swap and the available capacity, operational expertise, and resources of the derivatives clearing organization or clearing agency that accepts it for clearing.

''(vi) Whether a clearing mandate would mitigate risk to the financial system or whether it would unduly concentrate risk in a clearing participant, derivatives clearing organization, or clearing agency in a manner that could threaten the solvency of that clearing participant, the derivatives clearing organization, or the clearing agency.

''(vii) Such other factors as the Commission, the Securities and Exchange Commission, and the Federal Reserve Board of Governors jointly may determine are relevant.

''(C) SWAPS SUBJECT TO CLEARING REQUIREMENT.—The Commission—

''(i) shall review each swap, or any group, category, type, or class of swap that is currently listed for clearing and those which a derivatives clearing organization notifies the Commission that the derivatives clearing organization plans to list for clearing after the date of enactment of this subsection;

''(ii) except as provided in paragraph (3), may require, pursuant to the rules adopted under subparagraph (A) and through notice-and-comment rulemaking, that a particular swap, group, category, type, or class of swap must be cleared; and

''(iii) shall rely on economic analysis provided by economists of the Commission in making any determination under clause (ii).

''(D) EFFECT.—

''(i) IN GENERAL.—Nothing in this paragraph affects the ability of a derivatives clearing organization to list for permissive clearing any swap, or group, category, type, or class of swaps.

''(ii) PROHIBITION.—The Commission shall not compel a derivatives clearing organization to list a swap, group, category, type, or class of swap for clearing if the derivatives clearing organization determines that the swap, group, category, type, or class of swap would adversely impact its business operations, or impair the financial integrity of the derivatives clearing organization.

''(iii) REQUIRED EXEMPTION.—The Commission shall exempt a swap from the requirements of subparagraph (C), if no derivatives clearing organization registered under this Act or no derivatives clearing organization that is exempt from registration under section 5b(j) of this Act will accept the swap for clearing.

''(E) PREVENTION OF EVASION.—The Commission may prescribe rules, or issue interpretations of such rules, as necessary to prevent evasions of any requirement to clear under subparagraph (C). In issuing such rules or interpretations, the Commission shall consider—

''(i) the extent to which the terms of the swap, group, category, type, or class of swap are similar to the terms of other swaps, groups, categories, types, or classes of swap that are required to be cleared by swap participants under subparagraph (C); and

''(ii) whether there is an economic purpose for any differences in the terms of the swap or group, category, type, or class of swap that are required to be cleared by swap participants under subparagraph (C).

''(F) ELIMINATION OF REQUIREMENT TO CLEAR.—The Commission may, pursuant to the rules adopted under subparagraph (A) and through notice-and-comment rulemaking, rescind a requirement imposed under subparagraph (C) with respect to a swap, group, category, type, or class of swap.

''(G) PETITION FOR RULEMAKING.—Any person may file a petition, pursuant to the rules of practice of the Commission, requesting that the Commission use its authority under subparagraph (C) to require clearing of a particular swap, group, category, type, or class of swap or to use its authority under subparagraph (F) to rescind a requirement for swap participants to clear a particular swap, group, category, type, or class of swap.

''(H) FOREIGN EXCHANGE FORWARDS, SWAPS, AND OPTIONS.—Foreign exchange forwards, swaps, and options shall not be subject to a clearing requirement under subparagraph (C) unless the Department of the Treasury and the Board of Governors determine that such a requirement is appropriate after considering whether there exists an effective settlement system for such foreign exchange forwards, swaps, and options and any other factors that the Department of the Treasury and the Board of Governors deem to be relevant.

''(3) END USER CLEARING EXEMPTION.—

''(A) DEFINITIONS.—In this paragraph:

''(i) COMMERCIAL END USER.—The term 'commercial end user' means any person who, as its primary business activity owns, operates, uses, produces, processes, develops, leases, manufacturers, distributes, merchandises, provides or markets goods, services, physical assets, or commodities (which shall include but not be limited to coal, natural gas, electricity, biofuels, crude oil, gasoline, propane, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.

''(ii) FINANCIAL ENTITY END USER.—

''(I) IN GENERAL.—The term 'financial entity end user' means any person predominately engaged in activities that are financial in nature, as determined by the Commission.

''(II) EXCLUSIONS.—The term 'financial entity end user' does not include—

''(aa) any person who is a swap dealer, security-based swap dealer, major swap participant, major security-based swap participant;

''(bb) an investment fund that would be an investment company (as defined in section 3 of the Investment Company Act o f 1940 (15

U.S.C. 80a-3)) but for paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a-3(c)); and is not a partnership or other entity or any subsidiary that is primarily invested in physical assets (which shall include but not be limited to commercial real estate) directly or through interests in partnerships or limited liability companies that own such assets;

''(cc) entities defined in section 1303(20) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502(20));

''(dd) a commodity pool; or

''(ee) a commercial end user.

''(B) END USER CLEARING EXEMPTION.—

''(i) IN GENERAL.—Subject to clause (ii), in the event that a swap is subject to the mandatory clearing requirement under paragraph (2), and 1 of the counterparties to the swap is a commercial end user or a financial entity end user, that counterparty—

''(I)(aa) may elect not to clear the swap, as required under paragraph (2); or

''(bb) may elect, prior to entering into the swap transaction, to require clearing of the swap; and

''(II) if the end user makes an election under subclause (I)(bb), shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.

''(ii) LIMITATION.—A commercial end user or a financial entity end user may only make an election under clause (i) if the end user is using the swap to hedge commercial risk, including operating risk and balance sheet risk.

''(C) TREATMENT OF AFFILIATES.—

''(i) IN GENERAL.—An affiliate of a commercial end user (including affiliate entities predominated engaged in providing financing for the purchase of merchandise or manufactured goods of the commercial end user) or a financial entity end user may make an election under subparagraph (B)(i) only if the affiliate uses the swap to hedge or mitigate the commercial risk, including operating risk and balance sheet risk, of the commercial end user or the financial entity end user or other affiliate of the commercial end user or financial entity end user.

''(ii) PROHIBITION RELATING TO CERTAIN AFFILIATES.—An affiliate of a commercial end user or a financial entity end user shall not use the exemption under subparagraph (B) if the affiliate is—

''(I) a swap dealer;

''(II) a security-based swap dealer;

''(III) a major swap participant;

''(IV) a major security-based swap participant;

''(V) an investment fund that would be an investment company (as defined in section 3 of the Investment Company Act o f 1940 (15 U.S.C. 80a-3)) but for paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a-3(c)); and is not a partnership or other entity or any subsidiary that is primarily invested in physical assets (which shall include but not be limited to commercial real estate) directly or through interests in partnerships or limited liability companies that own such assets; or

''(VI) a commodity pool.

''(D) ABUSE OF EXEMPTION.—The Commission may prescribe such rules or issue interpretations of the rules as the Commission determines to be necessary to prevent abuse of the exemption described in subparagraph (B). The Commission may also request information from those entities claiming the clearing exemption as necessary to prevent abuse of the exemption described in subparagraph (B).

''(4) REQUIRED REPORTING.—Each swap that is not cleared by any derivatives clearing organization shall be reported either to a registered swap repository described in section 21 or, if there is no repository that would accept the swap, to the Commission pursuant to section 4r.

''(5) TRANSITION RULES.—

''(A) REPORTING TRANSITION RULES.—The Commission shall provide for the reporting of data, as follows:

''(i) SWAPS ENTERED INTO BEFORE DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into before the date of the enactment of this subsection shall be reported to a registered swap repository or the Commission not later than 180 days after the effective date of this subsection.

''(ii) SWAPS ENTERED INTO ON OR AFTER DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into on or after such date of enactment shall be reported to a registered swap repository or the Commission not later than such time period as the Commission prescribe.

''(B) CLEARING TRANSITION RULES.—Swaps entered into before the effective date of any requirement under paragraph (2)(C) are exempt from the clearing requirements of this subsection.

''(6) REPORTING OBLIGATIONS.—

''(A) SWAPS IN WHICH ONLY 1 COUNTERPARTY IS A SWAP DEALER OR MAJOR SWAP PARTICIPANT.—With respect to a swap in which only 1 counterparty is a swap dealer or major swap participant, the swap dealer or major swap participant shall report the swap as required under paragraphs (4) and (5).

''(B) SWAPS IN WHICH 1 COUNTERPARTY IS A SWAP DEALER AND THE OTHER A MAJOR SWAP PARTICIPANT.—With respect to a swap in which 1 counterparty is a swap dealer and the other a major swap participant, the swap dealer shall report the swap as required under paragraphs (4) and (5).

''(C) OTHER SWAPS.—With respect to any other swap not described in subparagraph (A) or (B), the counterparties to the swap shall select a counterparty to report the swap as required under paragraphs (4) and (5).''.

SA 3917. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 580, line 1, insert after ''commercial end user'' the following: ''or a lending institution cooperatively owned by and primarily serving agricultural producers, agricultural cooperatives, or rural electric cooperatives''.

SA 3918. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1272, line 2, strike ''services who'' and insert ''services, but only to the extent that such person''.

On page 1272, line 22, strike ''(C)'' and insert ''(C)(i)''.

On page 1273, strike line 19 and insert the following:

''(C) LIMITATIONS.—

''(i) IN GENERAL.—Notwithstanding sub-''.

On page 1273, line 20, after ''subparagraph (B)'' insert '', and except as provided in clause (ii)''.

On page 1274, between lines 2 and 3, insert the following:

''(ii) EXCEPTION.—Subparagraph (A) and clause (i) of this subparagraph do not apply to any merchant, retailer, or seller of nonfinancial goods or services, to the extent that such person is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.''.

On page 1274, strike line 3 and all that follows through ''may'' on line 4 and insert the following:

''(D) RULES.—

''(i) AUTHORITY OF OTHER AGENCIES.—No provision of this title shall''.

On page 1274, between lines 13 and 14, insert the following:

''(ii) SMALL BUSINESSES.—A merchant, retailer, or seller of nonfinancial goods or services that would otherwise be subject to the authority of the Bureau solely by virtue of the application of subparagraph (B)(iii) shall be deemed not to be engaged significantly in offering or providing consumer financial products or services under subparagraph (C)(i), if such person—

''(I) only extends credit for the sale of nonfinancial goods or services, as described in subparagraph (A)(i);

''(II) retains such credit on its own accounts (except to sell or convey such debt that is delinquent or otherwise in default); and

''(III) meets the relevant industry size threshold to be a small business concern, based on annual receipts, pursuant to section 3 of the Small Business Act (15 U.S.C. 632) and the implementing rules thereunder.

''(iii) INITIAL YEAR.—A merchant, retailer, or seller of nonfinancial goods or services shall be deemed to meet the relevant industry size threshold described in clause (ii)(III) during the first year of operations of that business concern if, during that year, the receipts of that business concern reasonably are expected to meet that size threshold.

''(E) EXCEPTION FROM STATE ENFORCEMENT.—To the extent that the Bureau may not exercise authority under this subsection with respect to a merchant, retailer, or seller of nonfinancial goods or services, no action by a State attorney general or State regulator with respect to a claim made under this title may be brought under subsection 1042(a), with respect to an activity described in any of clauses (i) through (iii) of subparagraph (A) by such merchant, retailer, or seller of nonfinancial goods or services.''.

SA 3919. Mr. CONRAD (for himself, Mr. CRAPO, Mr. BARRASSO, Mr. KERRY, Mr. BROWN of Massachusetts, Ms. SNOWE, Ms. LANDRIEU, Mr. DORGAN, Mr. ROBERTS, Mr. ENZI, Mrs. MCCASKILL, Ms. COLLINS, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end

''too big to fail,'' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 466, line 13, strike ''bank'' and all that follows through ''association'' on line 15 and insert the following: ''bank having total assets of more than $10,000,000,000, in the same manner and to the same extent as if the insured State bank were a national banking association. For purposes of determining total assets under this subsection, the Corporation shall rely on the same regulations and interim methodologies specified in section 312(e) of the Restoring American Financial Stability Act of 2010''.

SA 3920. Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. NELSON of Nebraska, Mr. JOHANNS, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

Subtitle C—Fixed Annuities and Insurance Products Classification

SEC. 551. SHORT TITLE.

This subtitle may be cited as the ''Fixed Indexed Annuities and Insurance Products Classification Act of 2010''.

SEC. 552. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Primary jurisdiction for regulating life insurance and annuities is vested with the States and Territories of the United States and the District of Columbia.

(2) Indexed insurance and annuity products offered by insurance companies are subject to a wide array of laws and regulations enforced by States and applicable jurisdictions, including nonforfeiture requirements that provide for minimum guaranteed values, thereby protecting consumers against market related losses.

(3) Adoption of Rule 151A by the Securities and Exchange Commission, entitled ''Indexed Annuities and Certain Other Insurance Products'', 74 Fed. Reg. 3138 (January 16, 2009), interferes with State insurance regulation, harms the insurance industry, reduces competition, restricts consumer choice, creates unnecessary and excessive regulatory burdens, and diverts Commission resources, all of which outweighs any perceived benefits.

(b) PURPOSE.—The purpose of this subtitle is to nullify rule 151A and clarify the scope of the exemption for annuities and insurance contracts from Federal regulation under the Securities Act of 1933.

SEC. 553. SCOPE OF EXEMPTION FROM FEDERAL SECURITIES REGULATION.

Section 3(a)(8) of the Securities Act of 1933 (15 U.S.C. 77c(a)(8)) is amended by inserting before the semicolon the following: '', and any insurance or endowment policy or annuity contract or optional annuity contract—

''(A) the value of which does not vary according to the performance of a separate account; and

''(B) which satisfies standard nonforfeiture laws or similar requirements of the applicable State, Territory, or District of Columbia at time of issue, or in the absence of applicable standard nonforfeiture laws or requirements, satisfies the Model Standard Nonforfeiture Law for Life Insurance or Model Standard Nonforfeiture Law for Individual Deferred Annuities, or any successor model law, as published by the National Association of Insurance Commissioners''.

SEC. 554. NULLIFICATION OF CERTAIN FEDERAL SECURITIES REGULATIONS.

Rule 151A promulgated by the Securities and Exchange Commission and entitled ''Indexed Annuities and Certain Other Insurance Contracts'', 74 Fed. Reg. 3138 (January 16, 2009), shall have no force or effect.

SA 3921. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1267, line 18, insert before the semicolon '', as such amount is indexed for inflation''.

On page 1267, line 20, insert before the period '', as such amount is indexed for inflation''.

On page beginning on line 24, strike '', to support its examination activities under subsection (c), and''.

On page 1268, strike line 24 and all that follows through page 1269, line 19 and insert the following:

(c) ENFORCEMENT.—

On page 1270, line 13, strike ''(e)'' and insert ''(d)''.

On page 1345, beginning on line 1, strike '', 1025, and 1026'' and insert ''and 1025''.

NOTICE OF INTENT TO OBJECT TO PROCEEDING ON MAY 5, 2010

Mr. COBURN. Mr. President, pursuant to the provisions of section 512 of Public Law 110–81, I intend to object to proceeding to the nomination of Walter Isaacson, of Louisiana, to be Chairman of the Broadcasting Board of Governors, dated May 5, 2010, for the following reasons:

I have had longstanding concerns regarding transparency and effectiveness of our taxpayer-funded international broadcasting agencies under the purview of the Broadcasting Board of Governors. In particular, I am troubled by the operations and management of Voice of America (VOA) given issues raised by the media, Inspector General, and former employees of VOA. Therefore, I have requested to meet with all the prospective nominees to discuss these issues. The Broadcasting Board of Governors performs a vital role regarding oversight and management of our international broadcasting. As the nation faces threats from the Middle East and in fact throughout the world, transparent and effective international broadcasting agencies are critical to ensuring our international broadcasts are in fact fulfilling America's interests in securing peace for ourselves and our allies.

Mr. COBURN. Mr. President, pursuant to the provisions of section 512 of Public Law 110–81, I intend to object to proceeding to the nomination of Victor Ashe of Tennessee, to be member of the Broadcasting Board of Governors, dated May 5, 2010, for the reasons denoted above.

Mr. COBURN. Mr. President, pursuant to the provisions of section 512 of Public Law 110–81, I intend to object to proceeding to the nomination of Michael Lynton of California, to be member of the Broadcasting Board of Governors, dated May 5, 2010, for the reasons denoted above.

Mr. COBURN. Mr. President, pursuant to the provisions of section 512 of Public Law 110–81, I object to proceeding to the nomination of Susan McCue of Virginia, to be member of casting Board of Governors, dated May 5, 2010, for the reasons denoted above.

Mr. COBURN. Mr. President, pursuant to the provisions of section 512 of Public Law 110–81, I intend to object to proceeding to the nomination of Dennis Mulhaupt of California, to be member of the Broadcasting Board of Governors, dated May 5, 2010, for the reasons denoted above.

Mr. COBURN. Mr. President, pursuant to the provisions of section 512 of Public Law 110–81, I intend to object to proceeding to the nomination of S. Enders Wimbush of Virginia, to be member of the Broadcasting Board of Governors, dated May 5, 2010, for the reasons denoted above.

NOTICE: PUBLIC FINANCIAL DISCLOSURE REPORTS

The filing date for the 2009 Public Financial Disclosure reports is Monday, May 17, 2010. Senators, political fund designees and staff members whose salaries exceed 120% of the GS–15 pay scale must file reports.

Public Financial Disclosure reports should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510.

The Public Records office will be open from 9 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224–0322.

THE CALENDAR

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that it be in order for the Senate to proceed en bloc to consideration of the following calendar items: Calendar No. 261, S. Res. 297; Calendar No. 262, S. Res. 275; Calendar No. 287, S. 1053; Calendar No. 291, S. 1405; Calendar No. 295, H.R. 689; Calendar No. 297, H.R. 1121; Calendar No. 300, H.R. 1442; Calendar No. 305, H.R. 2802.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed en bloc.

Mr. REID. I ask unanimous consent that the resolutions be agreed to en bloc; the preambles be agreed to en bloc; that the committee-reported amendments, where applicable, be agreed to; the bill, as amended, if amended, where applicable, be read a third time and passed, as amended, if amended, where applicable, en bloc; the motions to reconsider be laid on the table en bloc; that the consideration of these items appear separately in the RECORD; and that any statements relating thereto be printed in the RECORD.

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

DYKE MARSH WILDLIFE PRESERVE

The resolution (S. Res. 297) to recognize the Dyke Marsh Wildlife Preserve as a unique and precious ecosystem was considered and agreed to. The preamble was agreed to. The resolution, with its preamble, reads as follows:

S. RES. 297

Whereas the Dyke Marsh Wildlife Preserve on the west bank of the Potomac River just south of Alexandria in Fairfax County is one of the largest remaining freshwater tidal marshes in the Greater Washington, DC, area;

Whereas Congress expressly designated the Dyke Marsh ecosystem for protection in 1959, fifty years ago, under Public Law 86–41 ''so that fish and wildlife development and their preservation as wetland wildlife habitat shall be paramount'';

Whereas the Honorable John D. Dingell of Michigan, the late Honorable John P. Saylor of Pennsylvania, and the late Honorable Henry S. Reuss of Wisconsin were instrumental in passing this legislation and in preventing proposed development along the Potomac River, thereby protecting the Dyke Marsh ecosystem from further dredging, filling, and other activities incompatible with a preserve;

Whereas Dyke Marsh is 5,000 to 7,000 years old and is a unique natural treasure in the national capital region, with more than 6,500 species of plants, insects, fish, birds, reptiles and amphibians contained within an approximately 485-acre parcel;

Whereas the Dyke Marsh Wildlife Preserve is a significant element in the historic character of the Mount Vernon Memorial Parkway;

Whereas freshwater tidal marshes are rare, and the Dyke Marsh Wildlife Preserve is one of the few climax, tidal, riverine, narrow-leafed cattail wetlands in the United States National Park Service system;

Whereas wetlands provide ecological services such as flood control, attenuation of tidal energy, water quality enhancement, wildlife habitat, nursery and spawning grounds, and recreational and aesthetic enjoyment;

Whereas the Dyke Marsh Wildlife Preserve serves as an outdoor laboratory for scientists, educators, students, naturalists, artists, photographers, and others, attracting people of all ages; and

Whereas the Friends of Dyke Marsh is a conservation advocacy group created in 1975 and dedicated to the preservation and restoration of this wetland habitat and its natural resources: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the Dyke Marsh Wildlife Preserve of Fairfax County, Virginia, as a unique and precious ecosystem that serves as an invaluable natural resource both locally and nationally;

(2) recognizes and expresses appreciation for Representative John Dingell's, Representative John Saylor's, and Representative Henry Reuss's leadership in preserving this precious natural resource;

(3) celebrates the 50th anniversary of the Federal legislation designating the Dyke Marsh Wildlife Preserve as a protected wetland habitat;

(4) expresses the need to continue to conserve, protect and restore this fragile habitat, in which a diverse array of plants, animals and other natural resources is threatened by past dredging and filling, a gradual depletion in size, urban and suburban development, river traffic, stormwater runoff, poaching, and non-native invasive species; and

(5) commends the Friends of Dyke Marsh for its longstanding commitment to promoting conservation and environmental awareness and stewardship, so that the Dyke Marsh Wildlife Preserve may be enjoyed by generations for the next 50 years and into the future.

HONORING THE MINUTE MAN NATIONAL HISTORICAL PARK

The resolution (S. Res. 275) honoring the Minute Man National Historical Park on the occasion of its 50th anniversary was considered and agreed to. The preamble was agreed to. The resolution, with its preamble, reads as follows:

S. RES. 275

Whereas, since September 21, 1959, Minute Man National Historical Park has preserved key sites where the first battles of the American Revolutionary War occurred, and educated millions of people in the United States about the extraordinary events that led to the birth of the United States and the ideals embodied in the courageous actions that led to such events;

Whereas Minute Man National Historical Park encompasses more than 1,000 acres in the historic communities of Lexington, Lincoln, and Concord that were at the center of the American Revolution;

Whereas the events, places, and people recognized by the Minute Man National Historical Park have become enduring testaments to the values of the people of the United States and are among the most celebrated and cherished symbols in the history of the United States;

Whereas the Minute Man National Historical Park includes multiple sites and vistas along the route from Boston to Concord, known as the ''Battle Road'', where American militia and British soldiers fought several times on April 19, 1775;

Whereas American militia were first ordered to return British fire at Concord's North Bridge, a heroic action commemorated by the United States poet Ralph Waldo Emerson in his poem ''The Concord Hymn'' as the ''shot heard round the world'';

Whereas the park celebrates the legendary ''midnight ride'' of Paul Revere on April 18, 1775, that warned American colonists that British soldiers were marching to Concord to destroy key military stores; and

Whereas more than 1,000,000 people from States across the United States and from around the world visit Minute Man National Historical Park each year to learn about the role that the New England communities of Lexington, Lincoln, and Concord played in the American Revolution: Now, therefore, be it

Resolved, that it is the sense of the Senate that—

(1) Minute Man National Historical Park serves an essential role in preserving the sites and vistas in New England where the American Revolution began and in educating the public about these historic events;

(2) Minute Man National Historical Park honors and commemorates the ideals of democracy, liberty, and freedom that are the foundation of the United States and sources of inspiration for people everywhere; and

(3) the creation of Minute Man National Historical Park 50 years ago represents a remarkable achievement that continues to benefit the people of the United States, to preserve the proud legacy of the American Revolution, and to serve as an enduring resource for future generations.

TO AMEND THE NATIONAL LAW ENFORCEMENT MUSEUM ACT

The bill (S. 1053) to amend the National Law Enforcement Museum Act to extend the termination date, was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

S. 1053

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

SECTION 1. NATIONAL LAW ENFORCEMENT MUSEUM ACT.

Section 4(f) of the National Law Enforcement Museum Act (Public Law 106–492) is amended by striking ''10 years'' and inserting ''13 years''.

LONGFELLOW HOUSE-WASHINGTON'S HEADQUARTERS NATIONAL HISTORIC SITE DESIGNATION ACT

The bill (S. 1405) to redesignate the Longfellow National Historic Site, Massachusetts, as the ''Longfellow House-Washington's Headquarters National Historic Site,'' was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

S. 1405

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 ''Longfellow House-Washington's Headquarters National Historic Site Designation Act''.

SEC. 2. REDESIGNATION OF LONGFELLOW NATIONAL HISTORIC SITE, MASSACHUSETTS.

(a) IN GENERAL.—The Longfellow National Historic Site in Cambridge, Massachusetts, shall be known and designated as ''Longfellow House-Washington's Headquarters National Historic Site''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Longfellow National Historic Site shall be considered to be a reference to the ''Longfellow House-Washington's Headquarters National Historic Site''.

SHASTA-TRINITY NATIONAL FOREST ADMINISTRATIVE JURISDICTION TRANSFER ACT

The Senate proceeded to consider the bill (H.R. 689) to interchange the administrative jurisdiction of certain Federal lands between the Forest Service and the Bureau of Land Management, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, 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 ''Shasta-Trinity National Forest Administrative Jurisdiction Transfer Act''.

SEC. 2. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE BUREAU OF LAND MANAGEMENT.

(a) IN GENERAL.—Administrative jurisdiction over the Federal land described in subsection (b) is transferred from the Secretary of Agriculture to the Secretary of the Interior.

(b) DESCRIPTION OF LAND.—The Federal land referred to in subsection (a) is the land within the Shasta-Trinity National Forest in California, Mount Diablo Meridian, as generally depicted on the map entitled ''Shasta-Trinity Administrative Jurisdiction Transfer: Transfer from Forest Service to BLM, Map 1'' and dated November 23, 2009.

(c) MANAGEMENT AND STATUS OF TRANSFERRED LAND.—The Federal land described in subsection (b) shall be administered in accordance with—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(2) any other applicable law (including regulations).

SEC. 3. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE FOREST SERVICE.

(a) IN GENERAL.—Administrative jurisdiction over the Federal land described in subsection (b) is transferred from the Secretary of the Interior to the Secretary of Agriculture.

(b) DESCRIPTION OF LAND.—The Federal land referred to in subsection (a) is the land administered by the Director of the Bureau of Land Management in the Mount Diablo Meridian, California, as generally depicted on the map entitled ''Shasta-Trinity Administrative Jurisdiction Transfer: Transfer from BLM to Forest Service, Map 2'' and dated November 23, 2009.

(c) MANAGEMENT AND STATUS OF TRANSFERRED LAND.—

(1) IN GENERAL.—The Federal land described in subsection (b) shall be—

(A) withdrawn from the public domain;

(B) reserved for administration as part of the Shasta-Trinity National Forest; and

(C) managed in accordance with the laws (including the regulations) generally applicable to the National Forest System.

(2) WILDERNESS ADMINISTRATION.—The land transferred to the Secretary of Agriculture under subsection (a) that is within the Trinity Alps Wilderness shall—

(A) not affect the wilderness status of the transferred land; and

(B) be administered in accordance with—

(i) this section;

(ii) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(iii) the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

SEC. 4. ADMINISTRATIVE PROVISIONS.

(a) CORRECTIONS.—

(1) MINOR ADJUSTMENTS.—The Secretary of Agriculture and the Secretary of the Interior may, by mutual agreement, make minor corrections and adjustments to the transfers under this Act to facilitate land management, including corrections and adjustments to any applicable surveys.

(2) PUBLICATIONS.—Any corrections or adjustments made under subsection (a) shall be effective on the date of publication of a notice of the corrections or adjustments in the Federal Register.

(b) HAZARDOUS SUBSTANCES.—

(1) NOTICE.—The Secretary of Agriculture and the Secretary of the Interior shall, with respect to the land described in sections 2(b) and 3(b), respectively—

(A) identify any known sites containing hazardous substances; and

(B) provide to the head of the Federal agency to which the land is being transferred notice of any sites identified under subparagraph (A).

(2) CLEANUP OBLIGATIONS.—To the same extent as on the day before the date of enactment of this Act, with respect to any Federal liability—

(A) the Secretary of Agriculture shall remain responsible for any cleanup of hazardous substances on the Federal land described in section 2(b); and

(B) the Secretary of the Interior shall remain responsible for any cleanup of hazardous substances on the Federal land described in section 3(b).

(c) EFFECT ON EXISTING RIGHTS AND AUTHORIZATIONS.—Nothing in this Act affects—

(1) any valid existing rights; or

(2) the validity or term and conditions of any existing withdrawal, right-of-way, easement, lease, license, or permit on the land to which administrative jurisdiction is transferred under this Act, except that beginning on the date of enactment of this Act, the head of the agency to which administrative jurisdiction over the land is transferred shall be responsible for administering the interests or authorizations (including reissuing the interests or authorizations in accordance with applicable law).

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

The bill (H.R. 689), as amended, was ordered to be read a third time, was read the third time, and passed.

BLUE RIDGE PARKWAY AND TOWN OF BLOWING ROCK LAND EXCHANGE ACT OF 2009

The bill (H.R. 1121) to authorize a land exchange to acquire lands for the Blue Ridge Parkway from the Town of Blowing Rock, North Carolina, and for other purposes, was considered, ordered to a third reading, was read the third time, and passed.

UTAH LAND SALE ACT

The bill (H.R. 1442) to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909, was considered, ordered to a third reading, was read the third time, and passed.

JOHN ADAMS COMMEMORATIVE WORK EXTENSION ACT

The bill (H.R. 2802) to provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

COAST GUARD AUTHORIZATION ACT OF 2010

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 195, H.R. 3619.

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

The legislative clerk read as follows:

A bill (H.R. 3619) to authorize appropriations for the Coast Guard for fiscal year 2010, and for other purposes.

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

Mr. CONRAD. This is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 3619, as amended by S.A. 3912. This statement has been prepared pursuant to Section 4 of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139), and is being submitted for printing in the CONGRESSIONAL RECORD prior to passage of H.R. 3619, as amended, by the Senate.

Total Budgetary Effects of H.R. 3619, as amended for the 5-year Statutory PAYGO Scorecard: $2 million increase in the deficit. Total Budgetary Effects of H.R. 3619, as amended for the 10-year Statutory PAYGO Scorecard: $6 million increase in the deficit.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3619, THE COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 2010 AND 2011, AS PROVIDED TO CBO BY THE SENATE COMMITTEE ON SCIENCE, COMMERCE, AND TRANSPORTATION ON MAY 3, 2010

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
	Net Increase or Decrease (−) in the Deficit												
Statutory Pay-As-You-Go Impact[a]	0	0	0	0	0	0	0	0	0	0	0	2	6

[a] H.R. 3619 would increase by $4 million over the 2010–2020 period certain annual payments made by the Oil Spill Liability Trust Fund (an increase in direct spending). Provisions of the bill also would reduce offsetting receipts (a credit against direct spending) by about $2 million over the 2010–2020 period because the bill directs the Coast Guard to donate—rather than sell—certain properties to local governments in Michigan.

LIQUEFIED NATURAL GAS FACILITIES

Mr. REED. Mr. President, I rise to engage in a colloquy with my colleague from Rhode Island, Mr. WHITEHOUSE, and my colleague from West Virginia, Mr. ROCKEFELLER.

Mr. President, I want to thank the chairman of the Commerce Committee for his leadership in advancing this bill. As he, Senator WHITEHOUSE, and I have discussed, there is significant concern with respect to the safety and security of proposed liquefied natural gas, LNG, facilities throughout the country. Given the Deepwater Horizon disaster in the Gulf of Mexico, we know that no system for handling volatile substances is fool-proof.

Over the last several years, the people of Rhode Island have been greatly concerned about proposals to develop LNG facilities on or in close proximity to Rhode Island's shores, as well as proposals to transit LNG traffic through our waterways. I have come to the floor on many occasions to express my deep concerns about the wisdom of these projects; not as a matter of reflexive opposition to LNG but as a matter of the appropriateness of siting these facilities with little State control.

This includes a proposal in the Commonwealth of Massachusetts that will have significant impact on the State of Rhode Island, as it calls for vessels to transit through Narragansett Bay and off-load at an offshore berth in Mount Hope Bay just outside of Rhode Island waters. Over the years, members of the Rhode Island and Massachusetts delegations have raised concerns about this project, but the most severe impacts of the vessel traffic and related safety and security measures will be on Rhode Island, which has very little authority to influence the process. The Coast Guard has the responsibility of issuing so-called Letters of Recommendation to establish the suitability of a waterway to accommodate this type of vessel traffic and operation. Its determination is critical in the siting LNG facilities. Unfortunately, Rhode Island, like other states, has little recourse to object to the findings or conditions laid out by the Coast Guard, even though the bulk of the vessel activity will take place in its state waters. I believe the state should have a say about the appropriateness of activities in its waterways and should be consulted, especially about the broader impacts of LNG facilities and vessel traffic on other waterway users and on communities.

Although the underlying House bill includes a port security title, the substitute does not. While I recognize that and that the Committee will be dealing with port security legislation later this year, I think that it is critical that we act on this issue as soon as possible. I would like to work with the Chairman in crafting that bill, but I would also ask for his commitment to work to address the issues related to LNG facilities during conference with the House on the Coast Guard Reauthorization bill.

Mr. WHITEHOUSE. Mr. Chairman, I share the sentiments of the senior Senator from Rhode Island, Mr. REED.

Rhode Islanders are strongly opposed to this project. Furthermore, the process for siting the LNG facility has afforded us too few opportunities to address the impacts it will have on our state's economy, safety, and environment.

The Coast Guard is charged with the narrow task of determining whether LNG tankers can safely transit Rhode Island waters on their way to an offshore berthing station just on the other side of the state line in Massachusetts. However, the safe transit of these tankers is only one of the many important considerations that can, and should, be taken into account in determining the suitability of such a project. Narragansett Bay is the backbone of the Rhode Island economy, as it sustains our fishing, recreation, and tourism sectors. The proposed LNG facility in Fall River threatens to undermine these pillars of our economy.

I am not opposed to LNG as a fuel source. However, I have serious concerns with the proposal under consideration. The LNG tankers transiting Rhode Island waters must pass through heavily populated communities, under the presence of heavy security. The Coast Guard admits that this will likely displace other users of the bay and disrupt traffic on the bridges the tankers must travel beneath. This is too high a burden for Rhode Island to carry for a facility that is located in a neighboring state—and I am not convinced this burden is worth the marginal benefits of the proposed LNG facility.

I thank the Chairman of the Senate Commerce Committee, Senator ROCKEFELLER, for his willingness to work with us on an issue critical to the State of Rhode Island.

Mr. ROCKEFELLER. I am aware of both Senators' concerns and I will work with each of you related to LNG facilities during conference with the House on the Coast Guard Reauthorization bill.

Mr. REED. Thank you, Mr. Chairman. I look forward to this issue being addressed in the final Coast Guard Reauthorization bill.

Mr. WHITEHOUSE. I ask unanimous consent that the Cantwell substitute amendment, which is at the desk, be considered and 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 without further intervening action or debate.

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

The amendment (No. 3912) 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. 3619) was read the third time and passed.

CONDEMNING THE CONTINUED DETENTION OF DAW AUNG SAN SUU KYI

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration and the Senate now proceed to S. Res. 480.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 480) condemning the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and calling on the military regime in Burma to permit a credible and fair election process and the transition to civilian, democratic rule.

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

Mr. WHITEHOUSE. I ask unanimous consent that the amendment at the desk be agreed to; the resolution, as amended, be agreed to; the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The amendment (No. 3913) was agreed to, as follows:

(Purpose: To amend the resolving clause)

On page 2, beginning on line 7, strike ''the National League for Democracy and other opposition groups,'' and insert ''all political groups and individuals dedicated to democratic ideals,''.

On page 3, beginning on line 9, strike ''(including the People's Republic of China, the Association of Southeast Asian Nations, and the United Nations Security Council)'' and insert '', as appropriate, in order''.

On page 3, line 17, strike ''the National League for Democracy and''.

The resolution (S. Res. 480), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble reads as follows:

S. RES. 480

Whereas the military regime in Burma, headed by General Than Shwe and the State Peace and Development Council, continues to persecute Burmese democracy leader Daw Aung San Suu Kyi and her supporters in the National League for Democracy, and ordinary citizens of Burma, including ethnic minorities, who publically and courageously speak out against the regime's many injustices;

Whereas Daw Aung San Suu Kyi has been imprisoned in Burma for 14 of the last 19 years and many members of the National League for Democracy have been similarly jailed, tortured, or killed;

Whereas the Constitution adopted in 2008 and the election laws recently promulgated effectively prohibit the National League for Democracy, Buddhist monks, ethnic minority leaders, and Daw Aung San Suu Kyi from participating in upcoming elections, and do not leave much opportunity for domestic dialogue among key stakeholders; and

Whereas the persecution of the people of Burma has continued even though the Department of State has pursued a policy of engagement with the military regime designed to secure the release of political prisoners,

foster national reconciliation, and facilitate peaceful transition to civilian, democratic rule: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and all prisoners of conscience in Burma, and calls for their immediate and unconditional release;

(2) calls on the military regime in Burma to engage in dialogue with all political groups and individuals dedicated to democratic ideals, as well as with ethnic minorities, to broaden political participation in an environment free from fear and intimidation;

(3) calls upon the Secretary of State to assess the effectiveness of the policy of engagement with the military regime in Burma in furthering United States interests, and to maintain, and consider strengthening, sanctions against Burma if the military regime continues its systematic violation of human rights and fails to embrace the democratic aspirations of the people of Burma;

(4) calls upon the Secretary of State to engage regional governments and multilateral organizations, as appropriate, in order to push for the establishment of an environment in Burma that encourages the full and unfettered participation of the people of Burma in a democratic transition to civilian rule; and

(5) calls on the Secretary of State to support the people of Burma in calling for significant constitutional and election reforms by the military regime, which will broaden political participation, further democracy, accountability, and responsive governance, and improve human rights in Burma.

AUTHORIZING THE USE OF THE CAPITOL GROUNDS

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 247 which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 247) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

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

Mr. WHITEHOUSE. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 247) was agreed to.

AUTHORIZING THE USE OF CAPITOL GROUNDS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 263, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 263) authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run.

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

Mr. WHITEHOUSE. I ask unanimous consent the concurrent resolution be agreed to, the motion to reconsider be laid upon the table without any intervening action or debate, and any statements be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 263) was agreed to.

ENDANGERED SPECIES DAY

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the judiciary committee be discharged from further consideration of S. Res. 503 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. 503) designating May 21, 2010 as ''Endangered Species Day.''

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

Mr. WHITEHOUSE. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 503) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 503

Whereas in the United States and around the world, more than 1,000 species are officially designated as at risk of extinction and thousands more also face a heightened risk of extinction;

Whereas the actual and potential benefits that may be derived from many species have not yet been fully discovered and would be permanently lost if not for conservation efforts;

Whereas recovery efforts for species such as the whooping crane, Kirtland's warbler, the peregrine falcon, the gray wolf, the gray whale, the grizzly bear, and others have resulted in great improvements in the viability of such species;

Whereas saving a species requires a combination of sound research, careful coordination, and intensive management of conservation efforts, along with increased public awareness and education;

Whereas ⅔ of endangered or threatened species reside on private lands;

Whereas voluntary cooperative conservation programs have proven to be critical to habitat restoration and species recovery; and

Whereas education and increasing public awareness are the first steps in effectively informing the public about endangered species and species restoration efforts: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 21, 2010, as ''Endangered Species Day'';

(2) encourages schools to spend at least 30 minutes on Endangered Species Day teaching and informing students about—

(A) threats to endangered species around the world; and

(B) efforts to restore endangered species, including the essential role of private landowners and private stewardship in the protection and recovery of species;

(3) encourages organizations, businesses, private landowners, and agencies with a shared interest in conserving endangered species to collaborate in developing educational information for use in schools; and

(4) encourages the people of the United States—

(A) to become educated about, and aware of, threats to species, success stories in species recovery, and opportunities to promote species conservation worldwide; and

(B) to observe the day with appropriate ceremonies and activities.

NATIONAL PHYSICAL EDUCATION AND SPORT WEEK

RECOGNIZING AMERICORPS

NATIONAL TRAIN DAY

NATIONAL NURSING HOME WEEK

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate now proceed to the en bloc consideration of the following Senate resolutions: S. Res. 515, S. Res. 516, S. Res. 517, S. Res. 518.

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

Mr. WHITEHOUSE. I ask unanimous consent the resolutions be agreed to, the preambles be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements be printed in the RECORD.

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

The resolutions were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 515

Whereas the week beginning May 2, 2010, is observed as National Physical Education and Sport Week;

Whereas a decline in physical activity has contributed to an unprecedented epidemic of childhood obesity in the United States, which has more than tripled since 1980;

Whereas regular physical activity is necessary to support normal and healthy growth in children and is essential to their continued health and well-being;

Whereas, according to the Centers for Disease Control and Prevention, overweight adolescents have a 70 to 80 percent chance of becoming overweight adults, increasing their risk for chronic disease, disability, and death;

Whereas physical activity reduces the risk of heart disease, high blood pressure, diabetes, and certain types of cancers;

Whereas type 2 diabetes can no longer be referred to as ''late in life'' or ''adult onset'' diabetes because it occurs in children as young as 10 years old;

Whereas the Physical Activity Guidelines for Americans, published by the Department of Health and Human Services, recommend that children engage in at least 60 minutes of physical activity on most, and preferably all, days of the week;

Whereas, according to the Centers for Disease Control and Prevention, only 17 percent of high school students meet that goal of 60 minutes of physical activity a day;

Whereas children spend many of their waking hours at school and therefore need to be active during the school day to meet the recommendations of the Physical Activity Guidelines for Americans;

Whereas, according to the Centers for Disease Control and Prevention, 1 in 4 children in the United States does not attend any school physical education classes and fewer than 1 in 4 children in the United States engage in 20 minutes of vigorous physical activity each day;

Whereas teaching children about physical activity and sports not only ensures that they are physically active during the school day, but also educates them on how to be physically active and the importance of being physically active;

Whereas, according to a 2006 survey by the Department of Health and Human Services, 3.8 percent of elementary schools, 7.9 percent of middle schools, and 2.1 percent of high schools provide daily physical education classes or the equivalent for the entire school year, and 22 percent of schools do not require students to take any physical education classes at all;

Whereas, according to that survey, 13.7 percent of elementary schools, 15.2 percent of middle schools, and 3.0 percent of high schools provided physical education at least 3 days per week, or the equivalent thereof, for the entire school year for students in all grades in the school;

Whereas research shows that fit and active children are more likely to thrive academically;

Whereas increased time in physical education classes can improve children's attention and concentration and result in higher test scores;

Whereas participation in sports teams and physical activity clubs, which are often organized by schools and run outside the regular school day, can improve students' grade point averages, attachment to schools, educational aspirations, and the likelihood of graduating;

Whereas participation in sports and other physical activities also improves self-esteem and body image in children and adults;

Whereas children and youth who take part in physical activity and sports programs develop improved motor skills, healthy lifestyles, improved social skills, a sense of fair play, strong teamwork skills, and self-discipline and avoid risky behaviors;

Whereas the social and environmental factors affecting children are in the control of the adults and the communities in which children live, and therefore the Nation shares a collective responsibility in reversing the childhood obesity trend;

Whereas efforts to improve the fitness level of children who are not physically fit may also result in improvements in academic performance; and

Whereas the Senate strongly supports efforts to increase physical activity and participation of youth in sports: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning May 2, 2010, as ''National Physical Education and Sport Week'';

(2) recognizes the central role of physical education and sports in creating healthy lifestyles for all children and youth;

(3) encourages school districts to implement local wellness policies, as described in section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1751 note), that include ambitious goals for physical education, physical activity, and other activities addressing the childhood obesity epidemic and promoting child wellness; and

(4) encourages schools to offer physical education classes to students and to work with community partners to provide opportunities and safe spaces for physical activities before and after school and during the summer months for all children and youth.

S. RES. 516

Whereas, since its inception in 1994, the AmeriCorps national service program has proven to be a highly effective way to engage the people of the United States in meeting a wide range of local and national needs and promoting the ethic of service and volunteering;

Whereas, each year, AmeriCorps provides opportunities for approximately 85,000 individuals across the United States to give back in an intensive way to their communities, their States, and the Nation;

Whereas those individuals improve the lives of the Nation's most vulnerable citizens, protect the environment, contribute to public safety, respond to disasters, and strengthen the educational system;

Whereas AmeriCorps members serve thousands of nonprofit organizations, schools, and faith-based and community organizations each year;

Whereas AmeriCorps members, after their terms of service end, are more likely to remain engaged in their communities as volunteers, teachers, and nonprofit professionals than the average individual;

Whereas, on April 21, 2009, President Barack Obama signed the Serve America Act (Public Law 111–13; 123 Stat. 1460) into law, which was passed by bipartisan majorities in both the House of Representatives and the Senate and reauthorized AmeriCorps and will expand AmeriCorps programs to incorporate 250,000 members each year;

Whereas national service programs have engaged millions of people in the United States in results-driven service in the Nation's most vulnerable communities, providing hope and help to people facing economic and social needs;

Whereas, in 2010, as the economic downturn puts millions of people in the United States at risk, national service and volunteering are more important than ever; and

Whereas AmeriCorps Week, observed in 2010 from May 8 through May 15, provides the perfect opportunity for AmeriCorps members, alumni, grantees, program partners, and friends to shine a spotlight on the work done by AmeriCorps members and to motivate more people in the United States to serve their communities: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the contributions of AmeriCorps members to the lives of the people of the United States;

(2) acknowledges the significant accomplishments of AmeriCorps members, alumni, and community partners; and

(3) encourages the people of the United States to join in a national effort to salute AmeriCorps members and alumni and raise awareness about the importance of national and community service.

S. RES. 517

Whereas on May 10, 1869, the ''golden spike'' was driven into the final tie at Promontory Summit, Utah, to join the Central Pacific and the Union Pacific Railroads, ceremonially completing the first transcontinental railroad and therefore connecting both coasts of the United States;

Whereas in highly populated regions Amtrak trains and infrastructure carry intercity passengers and commuters to and from work in congested metropolitan areas, providing a reliable rail option while reducing congestion on roads and in the skies;

Whereas Amtrak ridership in Fiscal Year 2009 reached 27.1 million passengers from 46 states;

Whereas, for many rural Americans, Amtrak represents the only major intercity transportation link to the rest of the country;

Whereas passenger rail provides a fuel-efficient transportation system, thereby providing clean transportation alternatives and energy security;

Whereas, when combined with all modes of transportation, passenger railroads emit only 0.2 percent of the travel industry's total greenhouse gases and one freight train can move a ton of freight 480 miles on one gallon of fuel;

Whereas developing this pipeline of national high-speed and intercity passenger rail projects will revitalize the domestic manufacturing industry and create additional American jobs building on the one million good-paying, middle-class-creating American jobs that can never be off-shored that are already supported by the rail industry;

Whereas ridership on Amtrak grew every year from 2000 through 2008, and is currently on track for 2010 to be its best ridership year ever, further demonstrating the increased demand for intercity passenger rail services; and

Whereas our railroad system is a source of civic pride, the gateway to our communities and a tool for economic growth that creates transportation-oriented development and livable communities: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of National Train Day, as designated by Amtrak.

S. RES. 518

Whereas more than 1,500,000 elderly and disabled individuals live in the nearly 16,000 nursing facilities in the United States;

Whereas the annual celebration of National Nursing Home Week invites people in communities nationwide to recognize nursing home residents and staff for their contributions to their communities;

Whereas the theme for National Nursing Home Week in 2010 is ''Enriching Every Day'', honoring caregivers who are ''enriching every day'' for elderly and disabled individuals, adding value to their lives and helping them to overcome many of the infirmities of age and disability;

Whereas nursing homes are intimate communities where acts of caring, kindness, and respect are the norm;

Whereas, when the positive bond that naturally develops between patients and their caregivers is established, patients experience not only better physical care and healing, but also enrichment of the mind, heart, and spirit and an affirmation of their value; and

Whereas National Nursing Home Week recognizes the people who provide care to the Nation's most vulnerable population: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning May 9, 2010, as ''National Nursing Home Week'';

(2) recognizes that a majority of people in the United States, because of social needs, disability, trauma, or illness, will require long-term care services at some point in their lives;

(3) honors nursing home residents and the people who care for them each day, including

family members, volunteers, and dedicated long-term care professionals, for their contributions to their communities and the United States; and

(4) encourages the people of the United States to observe National Nursing Home Week with appropriate ceremonies and activities.

SATELLITE TELEVISION EXTENSION AND LOCALISM ACT

The PRESIDING OFFICER. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3333, introduced earlier today.

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

The legislative clerk read as follows:

A bill (S. 3333) to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.

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

Mr. LEAHY. Mr. President, I am pleased that the Senate will pass the Satellite Television Extension and Localism Act, STELA, of 2010. This legislation modernizes and extends important statutory copyright licenses that allow cable and satellite companies to retransmit the content transmitted by television broadcasters. STELA also includes important Communications Act authorizations that allow for the retransmission of broadcast television signals by satellite and cable providers.

Ensuring that Americans have access to broadcast television content is important, and it is particularly relevant for consumers in rural areas who might not otherwise be able to receive these signals over-the-air. The legislation that the Senate is passing today will ensure that nobody will be left in the dark for the foreseeable future. Broadcast television plays a critical role in cities and towns across the country, and remains the primary way in which consumers are able to access local content such as news, weather, and sports.

Cable and satellite providers help to expand the footprint of broadcast stations by allowing them to reach viewers who are unable to receive signals over-the-air. Vermont is an example of how cable and satellite companies can provide service to consumers in rural areas who might not otherwise receive these signals.

Vermonters will see improved service when this legislation is enacted. Today, DirecTV is permitted to use the licenses to provide Windham and Bennington Counties with stations from the Burlington television market, but DISH Network is not. This legislation will permit DISH to provide their subscribers in southern Vermont with the same service. As soon as DISH Network uses this authority, virtually everyone in the State will be able to access the news and information that is truly important to Vermonters.

One other important way that STELA will preserve and improve existing service for consumers is by correcting a flaw in the statutory copyright license for the cable industry. An unintended result of current law is that the cable license requires the cable industry to pay copyright holders for signals that many of their subscribers do not actually receive. This is often referred to as the phantom signal problem. The effect of this anomaly in the law is that Comcast is required to pay copyright royalties based on their subscriber base across the northeast for the Canadian television content that is only provided to subscribers in Burlington, VT.

The bill corrects this flaw by giving the cable industry the flexibility to continue to provide signals that are tailored to local interests—signals that might otherwise have been pulled from cable line-ups. This will benefit industry and consumers. For instance, subscribers in Burlington will still be able to receive programming such as ''Hockey Night in Canada,'' which has been a tradition, without fear that Comcast will have to remove the channel or raise prices because it is being charged royalties based on subscribers in Boston.

In addition, the legislation will expand consumer access to their States' public television programming and low-power, community-oriented stations that will promote media diversity.

This is the third time the Senate will have passed substantially the same reauthorization language. The bill is the product of many hours of hard work and compromise among four committees in both Houses of Congress. No single member or committee chairman would have written it in this exact way, but the final language represents a fair compromise on important issues. For instance, I would have preferred the approach included in the Senate Judiciary Committee-approved bill for providing incentives to DISH Network to launch additional local markets, rather than lifting a court-ordered injunction. As a matter of policy, lifting a court-ordered injunction based on copyright infringement is something I generally do not support, but others insisted upon it and it is part of the compromise embodied in STELA.

Overall, this is a good bill that will preserve and improve the service that consumers across the country are accustomed to receiving. I hope the third time the Senate passes it will be the final time and that it will be considered promptly by the House and signed into law by the President.

Mr. CONRAD: This is the Statement of Budgetary Effects of PAYGO Legislation for S. 3333. This statement has been prepared pursuant to Section 4 of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139), and is being submitted for printing in the CONGRESSIONAL RECORD prior to passage of S. 3333 by the Senate.

Total Budgetary Effects of S. 3333 for the 5-year Statutory PAYGO Scorecard: $0.

Total Budgetary Effects of S. 3333 for the 10-year Statutory PAYGO Scorecard: $0.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR A BILL TO EXTEND THE STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS UNDER TITLE 17, UNITED STATES CODE, AND FOR OTHER PURPOSES AS PROVIDED TO CBO BY THE SENATE COMMITTEE ON THE JUDICIARY ON MAY 6, 2010

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Net Increase or Decrease (−) in the Deficit													
Statutory Pay-As-You-Go Impact[a]	0	0	0	0	0	0	0	0	0	0	0	0	0

[a] The bill would authorize the Copyright Office to charge fees to cable and satellite providers to offset a portion of the costs of operating the copyright licensing program. This provision would increase both revenues and direct spending by $8 million over the 2010–2020 period.

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

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

The bill (S. 3333) was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 3333

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Satellite Television Extension and Localism Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—STATUTORY LICENSES

SEC. 101. REFERENCE.

Except as otherwise provided, whenever in this title an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

SEC. 102. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking ''**superstations and network stations for private home viewing**'' and inserting ''**distant television programming by satellite**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

''119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite.''.

(b) UNSERVED HOUSEHOLD DEFINED.—

(1) IN GENERAL.—Section 119(d)(10) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household's local market and affiliated with that network of—

''(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

''(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;'';

(B) in subparagraph (B)—

(i) by striking ''subsection (a)(14)'' and inserting ''subsection (a)(13),''; and

(ii) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(C) in subparagraph (D), by striking ''(a)(12)'' and inserting ''(a)(11)''.

(2) QUALIFYING DATE DEFINED.—Section 119(d) is amended by adding at the end the following:

''(14) QUALIFYING DATE.—The term 'qualifying date', for purposes of paragraph (10)(A), means—

''(A) October 1, 2010, for multicast streams that exist on March 31, 2010; and

''(B) January 1, 2011, for all other multicast streams.''.

(c) FILING FEE.—Section 119(b)(1) is amended—

(1) in subparagraph (A), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (B), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).''.

(d) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

(1) by amending the subsection heading to read as follows: ''(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—'';

(2) in paragraph (1), by striking subparagraph (B) and inserting the following:

''(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and'';

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(4) by inserting after paragraph (1) the following:

''(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.'';

(5) in paragraph (3), as redesignated, in the first sentence—

(A) by inserting ''(including the filing fee specified in paragraph (1)(C))'' after ''shall receive all fees''; and

(B) by striking ''paragraph (4)'' and inserting ''paragraph (5)'';

(6) in paragraph (4), as redesignated—

(A) by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(B) by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (5)''; and

(7) in paragraph (5), as redesignated, by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(e) ADJUSTMENT OF ROYALTY FEES.—Section 119(c) is amended as follows:

(1) Paragraph (1) is amended—

(A) in the heading for such paragraph, by striking ''ANALOG'';

(B) in subparagraph (A)—

(i) by striking ''primary analog transmissions'' and inserting ''primary transmissions''; and

(ii) by striking ''July 1, 2004'' and inserting ''July 1, 2009'';

(C) in subparagraph (B)—

(i) by striking ''January 2, 2005, the Librarian of Congress'' and inserting ''June 1, 2010, the Copyright Royalty Judges''; and

(ii) by striking ''primary analog transmission'' and inserting ''primary transmissions'';

(D) in subparagraph (C), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking ''(i) Voluntary agreements'' and inserting the following:

''(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements''; and

(II) by striking ''that a parties'' and inserting ''that are parties''; and

(ii) in clause (ii)—

(I) by striking ''(ii)(I) Within'' and inserting the following:

''(ii) PROCEDURE FOR ADOPTION OF FEES.—

''(I) PUBLICATION OF NOTICE.—Within'';

(II) in subclause (I), by striking ''an arbitration proceeding pursuant to subparagraph (E)'' and inserting ''a proceeding under subparagraph (F)'';

(III) in subclause (II), by striking ''(II) Upon receiving a request under subclause (I), the Librarian of Congress'' and inserting the following:

''(II) PUBLIC NOTICE OF FEES.—Upon receiving a request under subclause (I), the Copyright Royalty Judges''; and

(IV) in subclause (III)—

(aa) by striking ''(III) The Librarian'' and inserting the following:

''(III) ADOPTION OF FEES.—The Copyright Royalty Judges'';

(bb) by striking ''an arbitration proceeding'' and inserting ''the proceeding under subparagraph (F)''; and

(cc) by striking ''the arbitration proceeding'' and inserting ''that proceeding'';

(F) in subparagraph (E)—

(i) by striking ''Copyright Office'' and inserting ''Copyright Royalty Judges''; and

(ii) by striking ''May 31, 2010'' and inserting ''December 31, 2014''; and

(G) in subparagraph (F)—

(i) in the heading, by striking ''COMPULSORY ARBITRATION'' and inserting ''COPYRIGHT ROYALTY JUDGES PROCEEDING'';

(ii) in clause (i)—

(I) in the heading, by striking ''PROCEEDINGS'' and inserting ''THE PROCEEDING'';

(II) in the matter preceding subclause (I)—

(aa) by striking ''May 1, 2005, the Librarian of Congress'' and inserting ''September 1, 2010, the Copyright Royalty Judges'';

(bb) by striking ''arbitration proceedings'' and inserting ''a proceeding'';

(cc) by striking ''fee to be paid'' and inserting ''fees to be paid'';

(dd) by striking ''primary analog transmission'' and inserting ''the primary transmissions''; and

(ee) by striking ''distributors'' and inserting ''distributors—'';

(III) in subclause (II)—

(aa) by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(bb) by striking ''arbitration''; and

(IV) by amending the last sentence to read as follows: ''Such proceeding shall be conducted under chapter 8.'';

(iii) in clause (ii), by amending the matter preceding subclause (I) to read as follows:

''(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except

that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—'';

(iv) by amending clause (iii) to read as follows:

''(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.''; and

(v) in clause (iv)—

(I) in the heading, by striking ''FEE'' and inserting ''FEES''; and

(II) by striking ''fee referred to in (iii)'' and inserting ''fees referred to in clause (iii)''.

(2) Paragraph (2) is amended to read as follows:

''(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and nonnetwork stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.''.

(f) DEFINITIONS.—

(1) SUBSCRIBER.—Section 119(d)(8) is amended to read as follows:

''(8) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(2) LOCAL MARKET.—Section 119(d)(11) is amended to read as follows:

''(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j).''.

(3) LOW POWER TELEVISION STATION.—Section 119(d) is amended by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

(4) MULTICAST STREAM.—Section 119(d), as amended by paragraph (3), is further amended by adding at the end the following new paragraph:

''(14) MULTICAST STREAM.—The term 'multicast stream' means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.''.

(5) PRIMARY STREAM.—Section 119(d), as amended by paragraph (4), is further amended by adding at the end the following new paragraph:

''(15) PRIMARY STREAM.—The term 'primary stream' means—

''(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

''(B) if there is no stream described in subparagraph (A), then either—

''(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

''(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.''.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking ''which'' each place it appears and inserting ''that''.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking ''superstation'' each place it appears in a heading and each place it appears in text and inserting ''non-network station''; and

(2) by striking ''superstations'' each place it appears in a heading and each place it appears in text and inserting ''non-network stations''.

(h) REMOVAL OF CERTAIN PROVISIONS.—

(1) REMOVAL OF PROVISIONS.—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''(5), (6), and (8)'' and inserting ''(4), (5), and (7)'';

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking ''subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)'' and inserting ''subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)'';

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

''(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

''(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.''; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

(I) by striking ''under paragraph (3) or''; and

(II) by striking ''paragraph (12)'' and inserting ''paragraph (11)''; and

(B) in subsection (b)(1), by striking the final sentence.

(i) MODIFICATIONS TO PROVISIONS FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) PREDICTIVE MODEL.—Section 119(a)(2)(B)(ii) is amended by adding at the end the following:

''(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005).''.

(2) MODIFICATIONS TO STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—Section 119(a)(3) (as redesignated) is amended—

(A) by striking ''analog'' each place it appears in a heading and text;

(B) by striking subparagraphs (B), (C), and (D), and inserting the following:

''(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2010 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the 'distant signal'), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(C) FUTURE APPLICABILITY.—

''(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the 'distant signal') on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an

unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.'';

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively;

(D) in subparagraph (E) (as redesignated), by striking ''(C) or (D)'' and inserting ''(B) or (C)''; and

(E) in subparagraph (F) (as redesignated), by inserting ''9-digit'' before ''zip code''.

(3) STATUTORY DAMAGES FOR TERRITORIAL RESTRICTIONS.—Section 119(a)(6) (as redesignated) is amended—

(A) in subparagraph (A)(ii), by striking ''$5'' and inserting ''$250'';

(B) in subparagraph (B)—

(i) in clause (i), by striking ''$250,000 for each 6-month period'' and inserting ''$2,500,000 for each 3-month period''; and

(ii) in clause (ii), by striking ''$250,000'' and inserting ''$2,500,000''; and

(C) by adding at the end the following flush sentences:

''The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.''.

(4) TECHNICAL AMENDMENT.—Section 119(a)(4) (as redesignated) is amended by striking ''and 509''.

(5) CLERICAL AMENDMENT.—Section 119(a)(2)(B)(iii)(II) is amended by striking ''In this clause'' and inserting ''In this clause,''.

(j) MORATORIUM EXTENSION.—Section 119(e) is amended by striking ''May 31, 2010'' and inserting ''December 31, 2014''.

(k) CLERICAL AMENDMENTS.—Section 119 is amended—

(1) by striking ''of the Code of Federal Regulations'' each place it appears and inserting '', Code of Federal Regulations''; and

(2) in subsection (d)(6), by striking ''or the Direct'' and inserting '', or the Direct''.

SEC. 103. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS IN LOCAL MARKETS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 122 is amended by striking ''**by satellite carriers within local markets**'' and inserting ''**of local television programming by satellite**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 122 and inserting the following:

''122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.''.

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

''(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

''(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(A) the secondary transmission is made by a satellite carrier to the public;

''(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

''(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(i) each subscriber receiving the secondary transmission; or

''(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(2) SIGNIFICANTLY VIEWED STATIONS.—

''(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station's local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

''(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

''(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

''(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

''(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

''(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

''(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

''(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

''(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

''(i) on January 1, 2004, were in local markets principally comprised of counties in another State, and

''(ii) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

''(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

''(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

''(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

''(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a

State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

''(5) APPLICABILITY OF ROYALTY RATES AND PROCEDURES.—The royalty rates and procedures under section 119(b) shall apply to the secondary transmissions to which the statutory license under paragraph (4) applies.''.

(c) REPORTING REQUIREMENTS.—Section 122(b) is amended—

(1) in paragraph (1), by striking ''station a list'' and all that follows through the end and inserting the following: ''station—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

''(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).''; and

(2) in paragraph (2), by striking ''network a list'' and all that follows through the end and inserting the following: ''network—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

''(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has been added or dropped since the last submission under this subsection.''.

(d) NO ROYALTY FEE FOR CERTAIN SECONDARY TRANSMISSIONS.—Section 122(c) is amended—

(1) in the heading, by inserting ''FOR CERTAIN SECONDARY TRANSMISSIONS'' after ''REQUIRED''; and

(2) by striking ''subsection (a)'' and inserting ''paragraphs (1), (2), and (3) of subsection (a)''.

(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

(1) MODIFICATION TO STATUTORY DAMAGES.—Section 122(f) is amended—

(A) in paragraph (1)(B), by striking ''$5'' and inserting ''$250''; and

(B) in paragraph (2), by striking ''$250,000'' each place it appears and inserting ''$2,500,000''.

(2) CONFORMING AMENDMENTS FOR ADDITIONAL STATIONS.—Section 122 is amended—

(A) in subsection (f), by striking ''section 119 or'' each place it appears and inserting the following: ''section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to''; and

(B) in subsection (g), by striking ''section 119 or'' and inserting the following: ''section 119, paragraph (2)(A), (3), or (4) of subsection (a), or''.

(f) DEFINITIONS.—Section 122(j) is amended—

(1) in paragraph (1), by striking ''which contracts'' and inserting ''that contracts'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

(3) in paragraph (3)—

(A) by redesignating such paragraph as paragraph (4);

(B) in the heading of such paragraph, by inserting ''NON-NETWORK STATION;'' after ''NETWORK STATION;''; and

(C) by inserting '' 'non-network station','' after '' 'network station','';

(4) by inserting after paragraph (2) the following:

''(3) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term 'low power television station' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.'';

(5) by inserting after paragraph (4) (as redesignated) the following:

''(5) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term 'noncommercial educational broadcast station' means a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(6) by amending paragraph (6) (as redesignated) to read as follows:

''(6) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.''.

SEC. 104. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 111 is amended by inserting at the end the following: ''**of broadcast programming by cable**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

''111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.''.

(b) TECHNICAL AMENDMENT.—Section 111(a)(4) is amended by striking ''; or'' and inserting ''or section 122;''.

(c) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''A cable system whose secondary'' and inserting the following: ''STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary''; and

(ii) by striking ''by regulation—'' and inserting ''by regulation the following:'';

(B) in subparagraph (A)—

(i) by striking ''a statement of account'' and inserting ''A statement of account''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking subparagraphs (B), (C), and (D) and inserting the following:

''(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph (3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

''(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

''(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

''(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

''(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

''(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

''(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

''(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

''(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

''(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides such secondary transmission; and

''(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

''(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

''(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are $263,800 or less—

''(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which $263,800 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $10,400; and

''(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

''(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than $263,800 but less than $527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

''(i) 0.5 percent of any gross receipts up to $263,800, regardless of the number of distant signal equivalents, if any; and

''(ii) 1 percent of any gross receipts in excess of $263,800, but less than $527,600, regardless of the number of distant signal equivalents, if any.

''(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a).'';

(2) in paragraph (2), in the first sentence—

(A) by striking ''The Register of Copyrights'' and inserting the following ''HANDLING OF FEES.—The Register of Copyrights''; and

(B) by inserting ''(including the filing fee specified in paragraph (1)(G))'' after ''shall receive all fees'';

(3) in paragraph (3)—

(A) by striking ''The royalty fees'' and inserting the following: ''DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees'';

(B) in subparagraph (A)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking ''; and'' and inserting a period;

(C) in subparagraph (B)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking ''any such'' and inserting ''Any such'';

(4) in paragraph (4), by striking ''The royalty fees'' and inserting the following: ''PROCEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees''; and

(5) by adding at the end the following new paragraphs:

''(5) 3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37, Code of Federal Regulations (commonly referred to as the '3.75 percent rate' and the 'syndicated exclusivity surcharge', respectively), as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty Judges, shall not apply to the secondary transmission of a multicast stream.

''(6) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to this section of the information reported on the semiannual statements of account filed under this subsection for accounting periods beginning on or after January 1, 2010, in order that the auditor designated under subparagraph (A) is able to confirm the correctness of the calculations and royalty payments reported therein. The regulations shall—

''(A) establish procedures for the designation of a qualified independent auditor—

''(i) with exclusive authority to request verification of such a statement of account on behalf of all copyright owners whose works were the subject of secondary transmissions of primary transmissions by the cable system (that deposited the statement) during the accounting period covered by the statement; and

''(ii) who is not an officer, employee, or agent of any such copyright owner for any purpose other than such audit;

''(B) establish procedures for safeguarding all non-public financial and business information provided under this paragraph;

''(C)(i) require a consultation period for the independent auditor to review its conclusions with a designee of the cable system;

''(ii) establish a mechanism for the cable system to remedy any errors identified in the auditor's report and to cure any underpayment identified; and

''(iii) provide an opportunity to remedy any disputed facts or conclusions;

''(D) limit the frequency of requests for verification for a particular cable system and the number of audits that a multiple system operator can be required to undergo in a single year; and

''(E) permit requests for verification of a statement of account to be made only within 3 years after the last day of the year in which the statement of account is filed.

''(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.''.

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

''(1) PRIMARY TRANSMISSION.—A 'primary transmission' is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.'';

(2) in the second undesignated paragraph—

(A) by striking ''A 'secondary transmission' '' and inserting the following:

''(2) SECONDARY TRANSMISSION.—A 'secondary transmission' ''; and

(B) by striking '' 'cable system' '' and inserting ''cable system'';

(3) in the third undesignated paragraph—

(A) by striking ''A 'cable system' '' and inserting the following:

''(3) CABLE SYSTEM.—A 'cable system' ''; and

(B) by striking ''Territory, Trust Territory, or Possession'' and inserting ''territory, trust territory, or possession of the United States'';

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking ''The 'local service area of a primary transmitter', in the case of a television broadcast station, comprises the area in which such station is entitled to insist'' and inserting the following:

''(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The 'local service area of a primary transmitter', in the case of both the primary stream and any multicast streams transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted'';

(B) by striking ''76.59 of title 47 of the Code of Federal Regulations'' and inserting the following: ''76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations''; and

(C) by striking ''as defined by the rules and regulations of the Federal Communications Commission,'';

(5) by amending the fifth undesignated paragraph to read as follows:

''(5) DISTANT SIGNAL EQUIVALENT.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), a 'distant signal equivalent'—

''(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

''(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

''(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

''(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

''(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year.

''(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

''(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.'';

(6) by striking the sixth undesignated paragraph and inserting the following:

''(6) NETWORK STATION.—

''(A) TREATMENT OF PRIMARY STREAM.—The term 'network station' shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream's typical broadcast day.

''(B) TREATMENT OF MULTICAST STREAMS.—The term 'network station' shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

''(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

''(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more States.'';

(7) by striking the seventh undesignated paragraph and inserting the following:

''(7) INDEPENDENT STATION.—The term 'independent station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.'';

(8) by striking the eighth undesignated paragraph and inserting the following:

''(8) NONCOMMERCIAL EDUCATIONAL STATION.—The term 'noncommercial educational station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(9) by adding at the end the following:

''(9) PRIMARY STREAM.—A 'primary stream' is—

''(A) the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

''(B) if there is no stream described in subparagraph (A), then the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

''(10) PRIMARY TRANSMITTER.—A 'primary transmitter' is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

''(11) MULTICAST STREAM.—A 'multicast stream' is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream.

''(12) SIMULCAST.—A 'simulcast' is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

''(13) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking ''2005'' each place it appears and inserting ''2015''.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking ''clause'' each place it appears and inserting ''paragraph'';

(B) in subsection (c)(1), by striking ''clauses'' and inserting ''paragraphs''; and

(C) in subsection (e)(1)(F), by striking ''subclause'' and inserting ''subparagraph''.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking ''nonnetwork'' each place it appears and inserting ''non-network''.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking ''second paragraph of subsection (f)'' and inserting ''subsection (f)(2)''.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

(A) in paragraph (1)(A), by striking ''and'' at the end;

(B) in paragraph (1)(B), by striking ''and'' at the end;

(C) in paragraph (1)(C), by striking ''and'' at the end;

(D) in paragraph (1)(D), by striking ''and'' at the end; and

(E) in paragraph (2)(A), by striking ''and'' at the end.

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking '', and each of its variant forms,''; and

(B) in subsection (f), by striking ''and their variant forms''.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking ''three territories'' and inserting ''five entities''.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2010 ACT.—In any case in which a cable system was making secondary transmissions of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) MULTICAST STREAMS SUBJECT TO PREEXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.—In any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) DEFINITIONS.—In this subsection, the terms ''cable system'', ''secondary transmission'', ''multicast stream'', and ''local service area of a primary transmitter'' have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

SEC. 105. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.

Section 119 is amended by adding at the end the following new subsection:

''(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

''(2) LIMITED TEMPORARY WAIVER.—

''(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

''(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

''(C) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(i) FAILURE TO ACT REASONABLY AND IN GOOD FAITH.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

''(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(II) shall result in the termination of the waiver issued under subparagraph (A).

''(ii) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

''(I) the degree of control the carrier had over the circumstances that resulted in the failure;

''(II) the quality of the carrier's efforts to remedy the failure; and

''(III) the severity and duration of any service interruption.

''(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

''(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term 'short market'

means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

''(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

''(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

''(i) an affidavit that the entity is providing local-into-local service to all DMAs;

''(ii) a motion for a waiver of the injunction;

''(iii) a motion that the court appoint a special master under Rule 53 of the Federal Rules of Civil Procedure;

''(iv) an agreement by the carrier to pay all expenses incurred by the special master under paragraph (4)(B)(ii); and

''(v) a certification issued pursuant to section 342(a) of Communications Act of 1934.

''(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1). Upon motion pursuant to subparagraph (A)(iii), the court shall appoint a special master to conduct the examination and provide a report to the court as provided in paragraph (4)(B).

''(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

''(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

''(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

''(A) CONTINUING OBLIGATIONS.—

''(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

''(ii) COOPERATION WITH COMPLIANCE EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the special master appointed by the court under paragraph (3)(B) in an examination set forth in subparagraph (B).

''(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

''(i) EXAMINATION AND REPORT.—A special master appointed by the court under paragraph (3)(B) shall conduct an examination of, and file a report on, the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier's conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on April 30, 2012.

''(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than December 1, 2011, the qualified carrier shall provide the special master with all records that the special master considers to be directly pertinent to the following requirements under this section:

''(I) Proper calculation and payment of royalties under the statutory license under this section.

''(II) Provision of service under this license to eligible subscribers only.

''(iii) SUBMISSION OF REPORT.—The special master shall file the report required by clause (i) not later than July 24, 2012, with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy of the report to the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

''(iv) EVIDENCE OF INFRINGEMENT.—The special master shall include in the report a statement of whether the examination by the special master indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement.

''(v) SUBSEQUENT EXAMINATION.—If the special master's report includes a statement that its examination indicated the existence of substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the special master shall, not later than 6 months after the report under clause (i) is filed, initiate another examination of the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The special master shall file a report on the results of the examination conducted under this clause with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy to the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv).

''(vi) COMPLIANCE.—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with the examinations required by this subparagraph.

''(vii) OVERSIGHT.—During the period of time that the special master is conducting an examination under this subparagraph, the Comptroller General shall monitor the degree to which the entity seeking to be recognized or recognized as a qualified carrier under paragraph (3) is complying with the special master's examination. The qualified carrier shall make available to the Comptroller General all records and individuals that the Comptroller General considers necessary to meet the Comptroller General's obligations under this clause. The Comptroller General shall report the results of the monitoring required by this clause to the Committees on the Judiciary and on Energy and Commerce of the House of Representatives and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate at intervals of not less than six months during such period.

''(C) AFFIRMATION.—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier. The qualified carrier shall attach to its affidavit copies of all reports or orders issued by the court, the special master, and the Comptroller General.

''(D) COMPLIANCE DETERMINATION.—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

''(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

''(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

''(5) FAILURE TO PROVIDE SERVICE.—

''(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

''(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(ii) impose a fine of not less than $250,000 and not more than $5,000,000.

''(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for noncompliance that reflect—

''(i) the degree of control the entity had over the circumstances that resulted in the failure;

''(ii) the quality of the entity's efforts to remedy the failure and restore service; and

''(iii) the severity and duration of any service interruption.

''(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than $2,500,000.

''(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

''(A) IN GENERAL.—An entity provides 'local-into-local service to all DMAs' if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

''(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

''(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term 'good quality satellite signal' has the meaning given such term under section 342(e)(2) of Communications Act of 1934.''.

SEC. 106. COPYRIGHT OFFICE FEES.

Section 708(a) is amended—

(1) in paragraph (8), by striking ''and'' after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (9) the following:

''(10) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 119 or 122; and

''(11) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 111.''; and

(4) by adding at the end the following new sentence: ''Fees established under paragraphs (10) and (11) shall be reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.''.

SEC. 107. TERMINATION OF LICENSE.

(a) TERMINATION.—Section 119 of title 17, United States Code, as amended by this Act, shall cease to be effective on December 31, 2014.

(b) CONFORMING AMENDMENT.—Section 1003(a)(2)(A) of Public Law 111-118 (17 U.S.C. 119 note) is repealed.

SEC. 108. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this title, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

TITLE II—COMMUNICATIONS PROVISIONS

SEC. 201. REFERENCE.

Except as otherwise provided, whenever in this title an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 202. EXTENSION OF AUTHORITY.

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking ''May 31, 2010'' and inserting ''December 31, 2014''; and

(2) in paragraph (3)(C), by striking ''June 1, 2010'' each place it appears in clauses (ii) and (iii) and inserting ''January 1, 2015''.

SEC. 203. SIGNIFICANTLY VIEWED STATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

''(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

''(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.''.

(b) RULEMAKING REQUIRED.—Within 270 days after the date of the enactment of this Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).

SEC. 204. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking ''(3) EFFECTIVE DATE.—No satellite'' and all that follows through ''until January 1, 2002.''; and

(2) by amending subsection (g) to read as follows:

''(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

''(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

''(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).''.

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking ''Such two network stations'' and all that follows through ''more than two network stations.''; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking ''TO ANALOG SIGNALS'';

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking ''ANALOG'';

(II) in clause (i)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''October 1, 2004'' and inserting ''October 1, 2009'';

(III) in the heading for clause (ii), by striking ''ANALOG''; and

(IV) in clause (ii)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''2004'' and inserting ''2009'';

(iii) by amending subparagraph (B) to read as follows:

''(B) RULES FOR OTHER SUBSCRIBERS.—

''(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

''(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

''(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

''(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

''(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

''(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.'';

(iv) in subparagraph (C)—

(I) by striking ''analog'';

(II) in clause (i), by striking ''the Satellite Home Viewer Extension and Reauthorization Act of 2004; and'' and inserting the following: ''the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or''; and

(III) by amending clause (ii) to read as follows:

''(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.'';

(v) in subparagraph (D)—

(I) in the heading, by striking ''DIGITAL'';

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

''(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

''(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

''(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

''(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.'';

(V) in clause (ii)—

(aa) by striking ''DIGITAL'' in the heading;

(bb) by striking ''digital'' the first two places such term appears;

(cc) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(dd) by striking '', whether or not such subscriber elects to subscribe to local digital signals'';

(VI) by inserting after clause (ii) the following new clause:

''(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.''; and

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking ''distant analog signal or'' and all that follows through ''(B), or (D))'' and inserting ''distant signal'';

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

''(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

''(A) PREDICTIVE MODEL.—Within 270 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98–201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

''(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06–94 within 270 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.'';

(B) by amending paragraph (4)(A) to read as follows:

''(A) IN GENERAL.—If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.'';

(C) in paragraph (4)(B), by striking ''the signal intensity'' and all that follows through ''United States Code'' and inserting ''such requisite signal intensity standard''; and

(D) in paragraph (4)(E), by striking ''Grade B intensity''.

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

SEC. 205. APPLICATION PENDING COMPLETION OF RULEMAKINGS.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 203 and section 204 of this title, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of the enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber's eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this subtitle:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms ''local market'', ''low power television station'', ''satellite carrier'', ''subscriber'', and ''television broadcast station'' have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms ''network station'' and ''television network'' have the meanings given such terms in section 339(d) of such Act.

SEC. 206. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

Part I of title III is amended by adding at the end the following new section:

''SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

''(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

''(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

''(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

''(A) the satellite carrier's satellite beams are designed, and predicted by the satellite manufacturer's pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

''(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite's launch that precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

''(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

''(1) An affidavit stating that, to the best of the affiant's knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

''(2) For each designated market area not listed in paragraph (1):

''(A) Identification of each such designated market area and the location of its local receive facility.

''(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

''(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer's prelaunch tests, showing that the contours of the carrier's satellite beams as designed and the geographic area that the carrier's satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant's knowledge, there have been no satellite or sub-system failures subsequent to the satellite's launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

''(c) CERTIFICATION ISSUANCE.—

''(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

''(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

''(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

''(e) DEFINITIONS.—For the purposes of this section:

''(1) DESIGNATED MARKET AREA.—The term 'designated market area' has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

''(2) GOOD QUALITY SATELLITE SIGNAL.—

''(A) IN GENERAL.—The term ''good quality satellite signal'' means—

''(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

''(I) models of satellite antennas normally used by the satellite carrier's subscribers; and

''(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

''(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

''(I) the satellite carrier treats all television broadcast stations' signals the same with respect to statistical multiplexer prioritization; and

''(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

''(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier's application for certification under this section.''.

SEC. 207. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

''(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

''(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

''(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

''(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

''(B) NEW INITIATION OF SERVICE.—If, on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.''.

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

''(2) ELIGIBLE SATELLITE CARRIER.—The term 'eligible satellite carrier' means any satellite carrier that is not a party to a carriage contract that—

''(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

''(B) is in force and effect within 150 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.'';

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

''(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any full-power television broadcast station that—

''(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

''(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.''.

SEC. 208. SAVINGS CLAUSE REGARDING DEFINITIONS.

Nothing in this title or the amendments made by this title shall be construed to affect—

(1) the meaning of the terms ''program related'' and ''primary video'' under the Communications Act of 1934; or

(2) the meaning of the term ''multicast'' in any regulations issued by the Federal Communications Commission.

SEC. 209. STATE PUBLIC AFFAIRS BROADCASTS.

Section 335(b) is amended—

(1) by inserting ''**STATE PUBLIC AFFAIRS,**'' after ''**EDUCATIONAL,**'' in the heading;

(2) by striking paragraph (1) and inserting the following:

''(1) CHANNEL CAPACITY REQUIRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

''(B) REQUIREMENT FOR QUALIFIED SATELLITE PROVIDER.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.'';

(3) in paragraph (5), by striking ''For purposes of the subsection—'' and inserting ''For purposes of this subsection:''; and

(4) by adding at the end of paragraph (5) the following:

''(C) The term 'qualified satellite provider' means any provider of direct broadcast satellite service that—

''(i) provides the retransmission of the State public affairs networks of at least 15 different States;

''(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

''(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

''(D) The term 'State public affairs network' means a non-commercial non-broadcast network or a noncommercial educational television station—

''(i) whose programming consists of information about State government deliberations and public policy events; and

''(ii) that is operated by—

''(I) a State government or subdivision thereof;

''(II) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code and that is governed by an independent board of directors; or

''(III) a cable system.''.

TITLE III—REPORTS AND SAVINGS PROVISION

SEC. 301. DEFINITION.

In this title, the term ''appropriate Congressional committees'' means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

SEC. 302. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.

Not later than 18 months after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

SEC. 303. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.

(a) STUDY.—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth

under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.

SEC. 304. REPORT ON IN-STATE BROADCAST PROGRAMMING.

Not later than 18 months after the date of the enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive the signals of local broadcast stations assigned to a community of license that is located in a different State;

(2) the extent to which consumers in each local market have access to in-state broadcast programming over the air or from a multichannel video programming distributor; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

SEC. 305. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 270th day after the date of the enactment of this Act, and on each succeeding anniversary of such 270th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) FCC STUDY; REPORT.—

(1) STUDY.—If no satellite carrier files a request for a certification under section 342 of the Communications Act of 1934 (as added by section 206 of this title) within 270 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

(2) REPORT.—Within 1 year after the date of the initiation of the study under paragraph (1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

(c) DEFINITIONS.—In this section—

(1) the terms ''local market'' and ''satellite carrier'' have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term ''television broadcast station'' has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).

SEC. 306. SAVINGS PROVISION REGARDING USE OF NEGOTIATED LICENSES.

(a) IN GENERAL.—Nothing in this Act, title 17, United States Code, the Communications Act of 1934, regulations promulgated by the Register of Copyrights under this title or title 17, United States Code, or regulations promulgated by the Federal Communications Commission under this Act or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station's signal.

SEC. 307. EFFECTIVE DATE; NONINFRINGEMENT OF COPYRIGHT.

(a) EFFECTIVE DATE.—Unless specifically provided otherwise, this Act, and the amendments made by this Act, shall take effect on February 27, 2010, and with the exception of the reference in subsection (b), all references to the date of enactment of this Act shall be deemed to refer to February 27, 2010, unless otherwise specified.

(b) NONINFRINGEMENT OF COPYRIGHT.—The secondary transmission of a performance or display of a work embodied in a primary transmission is not an infringement of copyright if it was made by a satellite carrier on or after February 27, 2010, and prior to enactment of this Act, and was in compliance with the law as in existence on February 27, 2010.

TITLE IV—SEVERABILITY

SEC. 401. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provision or amendment to any person or circumstance shall not be affected thereby.

TITLE V—DETERMINATION OF BUDGETARY EFFECTS

SEC. 501. DETERMINATION OF BUDGETARY EFFECTS.

(a) IN GENERAL.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 849 to and including 879 and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc; that no further motions be in order; any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

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 brigadier general

Colonel Kenneth J. Moran

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

Lt. Gen. Edward A. Rice, Jr.

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel David W. Allvin
Colonel Balan R. Ayyar
Colonel Thomas W. Bergeson
Colonel Jack L. Briggs, II
Colonel James S. Browne
Colonel Arnold W. Bunch, Jr.
Colonel Theresa C. Carter
Colonel Scott L. Dennis
Colonel John W. Doucette
Colonel Sandra E. Finan
Colonel Donald S. George
Colonel Jerry D. Harris, Jr.
Colonel Kevin J. Jacobsen
Colonel Scott W. Jansson
Colonel Richard A. Klumpp, Jr.
Colonel Leslie A. Kodlick
Colonel Gregory J. Lengyel
Colonel James F. Martin, Jr.
Colonel Robert D. McMurry, Jr.
Colonel Edward M. Minahan
Colonel Jon A. Norman
Colonel James N. Post, III
Colonel Steven M. Shepro
Colonel Jay B. Silveria
Colonel David D. Thompson
Colonel William J. Thornton
Colonel Kenneth E. Todorov
Colonel Linda R. Urrutia-Varhall
Colonel Burke E. Wilson

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Mark A. Barrett
Brigadier General Michael R. Boera
Brigadier General Edward L. Bolton, Jr.
Brigadier General Joseph D. Brown, IV
Brigadier General Norman J. Brozenick, Jr.
Brigadier General Sharon K.G. Dunbar
Brigadier General David S. Fadok
Brigadier General Jonathan D. George
Brigadier General Walter D. Givhan
Brigadier General Mark W. Graper
Brigadier General James W. Hyatt
Brigadier General John E. Hyten
Brigadier General Richard C. Johnston
Brigadier General James J. Jones
Brigadier General Bruce A. Litchfield
Brigadier General Charles W. Lyon
Brigadier General Wendy M. Masiello
Brigadier General Kenneth D. Merchant
Brigadier General Harry D. Polumbo, Jr.
Brigadier General John D. Posner

Brigadier General Lori J. Robinson
Brigadier General Mark O. Schissler
Brigadier General Margaret H. Woodward

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. Eric E. Fiel

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Keith B. Alexander

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601, and to be a Senior Member of the Military Staff Committee of the United Nations under title 10, U.S.C., section 711:

To be lieutenant general

Lt. Gen. Charles H. Jacoby, Jr.

The following named officer for appointment in the United States Army 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. Daniel P. Bolger

The following named officer for appointment in the United States Army 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. David P. Fridovich

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Donald C. Leins

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., sections 624 and 3064:

To be brigadier general

Col. Nadja Y. West

The following named officer for appointment as Chief of the Dental Corps, and Assistant Surgeon General for Dental Services, United States Army and for appointment to the grade indicated under title 10, U.S.C., sections 3036 and 3039(b):

To be major general

Col. Ming T. Wong

IN THE NAVY

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 admiral

Vice Adm. James A. Winnefeld, Jr.

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. Carol M. Pottenger

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. Scott R. Van Buskirk

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. Mark I. Fox

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. David J. Venlet

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

Rear Adm. (lh) Elizabeth S. Niemyer

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)

Capt. Margaret G. Kibben

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)

Capt. David M. Boone

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)

Capt. Robert J. A. Gilbeau
Capt. Glenn C. Robillard

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 John C. Aquilino
Captain Sean S. Buck
Captain David M. Duryea
Captain Peter J. Fanta
Captain David J. Gale
Captain Charles M. Gaouette
Captain Michael M. Gilday
Captain Patrick D. Hall
Captain Jeffrey A. Harley
Captain Ronald Horton
Captain Philip G. Howe
Captain Kevin J. Kovacich
Captain Dietrich H. Kuhlmann, III
Captain Mark C. Montgomery
Captain Scott P. Moore
Captain Kenneth J. Norton
Captain Tilghman D. Payne
Captain Jeffrey R. Penfield
Captain Frederick J. Roegge
Captain Phillip G. Sawyer
Captain John W. Smith, Jr.
Captain David F. Steindl
Captain Kevin M. Sweeney
Captain Joseph E. Tofalo
Captain Michael A. Walley
Captain Michael S. White

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)

Capt. Brett C. Heimbigner
Capt. Matthew J. Kohler

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)

Capt. James D. Syring
Capt. Gregory R. Thomas

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)

Capt. Mathias W. Winter

The following named officer for appointment as Chief of Chaplains, United States Navy, and appointment to the grade indicated under title 10, U.S.C., section 5142:

To be rear admiral

Rear Adm. (h) Mark L. Tidd

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. Allen G. Myers

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility unde title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Duane D. Thiessen

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. Dennis J. Hejlik

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Ronald L. Bailey
Brigadier General Jon M. Davis
Brigadier General David C. Garza
Brigadier General Timothy C. Hanifen
Brigadier General James A. Kessler
Brigadier General Richard M. Lake
Brigadier General James B. Laster
Brigadier General Angela Salinas
Brigadier General Peter J. Talleri
Brigadier General Robert S. Walsh

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Brian D. Beaudreault
Colonel Vincent A. Coglianese
Colonel Craig C. Crenshaw
Colonel Francis L. Kelley, Jr.
Colonel John K. Love
Colonel James W. Lukeman
Colonel Carl E. Mundy, III
Colonel Kevin J. Nally
Colonel Daniel J. O'Donohue
Colonel Steven R. Rudder
Colonel John W. Simmons
Colonel Gary L. Thomas

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1274 AIR FORCE nominations (16) beginning RANDALL M. ASHMORE, and ending JAMES A. SPERL, which nominations were received by the Senate and appeared in the Congressional Record of December 11, 2009.

PN1534 AIR FORCE nomination of Carolyn Ann Moore Benyshek, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1560 AIR FORCE nominations (11) beginning ELIZABETH R. ANDERSONDOZE, and

ending KAREN M. WHARTON, which nominations were received by the Senate and appeared in the Congressional Record of March 10, 2010.

PN1662 AIR FORCE nominations (110) beginning SANDRA S. AGUILLON, and ending SHAWNA A. ZIERKE, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 2010.

PN1674 AIR FORCE nomination of Gerard G. Couvillion, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1675 AIR FORCE nomination of Eric W. Adcock, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1676 AIR FORCE nominations (6) beginning DREW C. JOHNSON, and ending JUSTIN P. OLSEN, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

IN THE ARMY

PN1535–1 ARMY nominations (25) beginning RONALD J. DYKSTRA, and ending ANTHONY T. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1561 ARMY nomination of Stephen T. Sauter, which was received by the Senate and appeared in the Congressional Record of March 10, 2010.

PN1562 ARMY nomination of Miles T. Gengler, which was received by the Senate and appeared in the Congressional Record of March 10, 2010.

PN1585 ARMY nominations (61) beginning DINO J. BESINGA, and ending SANG J. WON, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1586 ARMY nominations (8) beginning JAMES J. AIELLO, and ending WALTER C. PEREZ, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1666 ARMY nomination of Ramsey B. Salem, which was received by the Senate and appeared in the Congressional Record of April 21, 2010.

PN1678 ARMY nomination of Douglas B. Guard, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1679 ARMY nomination of Cheryl Maguire, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1680 ARMY nomination of Shirley M. Ochoa-Dobies, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1681 ARMY nominations (2) beginning DAVID W. TERHUNE, and ending PAUL E. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1682 ARMY nominations (3) beginning JUAN G. LOPEZ, and ending ROBERT G. SWARTS, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1683 ARMY nominations (6) beginning CHRISTOPHER T. BLAIS, and ending JILL D. SIMONSON, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1684 ARMY nominations (12) beginning DARRELL W. CARPENTER, and ending MIST L. WRAY, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1685 ARMY nominations (56) beginning JENIFER L. BREAUX, and ending LEON M. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1705 ARMY nominations (928) beginning TYLER M. ABERCROMBIE, and ending D010186, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1706 ARMY nominations (501) beginning GREGORY J. ADY, and ending G010044, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1707 ARMY nominations (521) beginning EDWARD V. ABRAHAMSON, and ending D006165, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1724 ARMY nominations (3) beginning CARL E. STEINBECK, and ending JENNIFER M. MCKENNA, which nominations were received by the Senate and appeared in the Congressional Record of April 28, 2010.

PN1733 ARMY nominations (7) beginning JAMES L. CASSARELLA, and ending RONALD A. WESTFALL, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 2010.

PN1734 ARMY nominations (5) beginning ANTHONY ABBOTT, and ending JEFFREY F. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 2010.

IN THE MARINE CORPS

PN1318 MARINE CORPS nominations (41) beginning DAVID F. ALLEN, and ending MARVIN A. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of December 21, 2009.

PN1319 MARINE CORPS nominations (663) beginning JOSE M. ACEVEDO, and ending CHAD W. ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of December 21, 2009.

PN1447 MARINE CORPS nominations (117) beginning WALTER T. ANDERSON, and ending KENNETH M. WOODARD, which nominations were received by the Senate and appeared in the Congressional Record of February 4, 2010.

PN1448 MARINE CORPS nominations (262) beginning STEPHEN J. ACOSTA, and ending LUIS R. ZAMARRIPA, which nominations were received by the Senate and appeared in the Congressional Record of February 4, 2010.

PN1503 MARINE CORPS nomination of Peter W. McDaniel, which was received by the Senate and appeared in the Congressional Record of March 3, 2010.

PN1505 MARINE CORPS nomination of Dean R. Keck, which was received by the Senate and appeared in the Congressional Record of March 3, 2010.

IN THE NAVY

PN1536 NAVY nomination of James H. Jones, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1537 NAVY nomination of Enrique G. Molina, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1538 NAVY nomination of Scott A. Carpenter, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1539 NAVY nomination of Christopher C. Richard, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1540 NAVY nomination of Jacob C. Hinz, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1541 NAVY nomination of Stanley E. Hovell, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1542 NAVY nomination of Rivka L. Weiss, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1543 NAVY nomination of Shawn M. Stebbins, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1544 NAVY nomination of Henry D. Lange, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1545 NAVY nomination of Christie M. Quietmeyer, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1587 NAVY nomination of Beth A. Hoffman, which was received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1588 NAVY nominations (10) beginning JOHN W. CHEATHAM, and ending NOBURO YAMAKI, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1589 NAVY nominations (39) beginning GREGORY M. SARACCO, and ending LUKE A. ZABROCKI, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1629 NAVY nominations (3) beginning JOHN T. FOJUT, and ending ANNE D. RESTREPO, which nominations were received by the Senate and appeared in the Congressional Record of April 14, 2010.

PN1686 NAVY nomination of Gregory J. Murrey, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1687 NAVY nomination of Patrick V. Bailey, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1702 NAVY nomination of Andrew K. Bailey, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1703 NAVY nomination of Todd J. Oswald, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1704 NAVY nomination of Maria D. Julia-Montanez, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1725 NAVY nominations (8) beginning WILLIAM T. CARNEY, and ending ANDREA S. STILLER, which nominations were received by the Senate and appeared in the Congressional Record of April 28, 2010.

PN1735 NAVY nomination of Frederick Harris, which was received by the Senate and appeared in the Congressional Record of April 29, 2010.

PN1736 NAVY nomination of Paul N. Langevin, which was received by the Senate and appeared in the Congressional Record of April 29, 2010.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

ORDERS FOR MONDAY, MAY 10, 2010

Mr. WHITEHOUSE. I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m., Monday, May 10; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day,

and the Senate proceed to a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each; that following morning business, the Senate resume consideration of S. 3217, Wall Street reform.

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

PROGRAM

Mr. WHITEHOUSE. Mr. President, I can announce that there will be no rollcall votes during Monday's session of the Senate.

ADJOURNMENT UNTIL MONDAY, MAY 10, 2010, AT 2 P.M.

Mr. WHITEHOUSE. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 1:04 p.m., adjourned until Monday, May 10, 2010, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

PHILLIP CARTER III, 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 REPUBLIC OF COTE D'IVOIRE.

GERALD M. FEIERSTEIN, OF PENNSYLVANIA, 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 YEMEN.

PETER MICHAEL MCKINLEY, 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 REPUBLIC OF COLOMBIA.

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

MAJ. GEN. FRANK J. KISNER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL JEFFREY L. HARRIGIAN
COLONEL JOHN F. NEWELL III
COLONEL MARK C. NOWLAND
COLONEL ROBERT D. THOMAS

CONFIRMATIONS

Executive nominations confirmed by the Senate, Friday, May 7, 2010:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL KENNETH J. MORAN

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

LT. GEN. EDWARD A. RICE, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL DAVID W. ALLVIN
COLONEL BALAN R. AYYAR
COLONEL THOMAS W. BERGESON
COLONEL JACK L. BRIGGS II
COLONEL JAMES S. BROWNE
COLONEL ARNOLD W. BUNCH, JR.
COLONEL THERESA C. CARTER
COLONEL SCOTT L. DENNIS
COLONEL JOHN W. DOUCETTE
COLONEL SANDRA E. FINAN
COLONEL DONALD S. GEORGE
COLONEL JERRY D. HARRIS, JR.
COLONEL KEVIN J. JACOBSEN
COLONEL SCOTT W. JANSSON
COLONEL RICHARD A. KLUMPP, JR.
COLONEL LESLIE A. KODLICK
COLONEL GREGORY J. LENGYEL
COLONEL JAMES F. MARTIN, JR.
COLONEL ROBERT D. MCMURRY, JR.
COLONEL EDWARD M. MINAHAN
COLONEL JON A. NORMAN
COLONEL JAMES N. POST III
COLONEL STEVEN M. SHEPRO
COLONEL JAY B. SILVERIA
COLONEL DAVID D. THOMPSON
COLONEL WILLIAM J. THORNTON
COLONEL KENNETH E. TODOROV
COLONEL LINDA R. URRUTIA-VARHALL
COLONEL BURKE E. WILSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL MARK A. BARRETT
BRIGADIER GENERAL MICHAEL R. BOERA
BRIGADIER GENERAL EDWARD L. BOLTON, JR.
BRIGADIER GENERAL JOSEPH D. BROWN IV
BRIGADIER GENERAL NORMAN J. BROZENICK, JR.
BRIGADIER GENERAL SHARON K.G. DUNBAR
BRIGADIER GENERAL DAVID S. FADOK
BRIGADIER GENERAL JONATHAN D. GEORGE
BRIGADIER GENERAL WALTER D. GIVHAN
BRIGADIER GENERAL MARK W. GRAPER
BRIGADIER GENERAL JAMES W. HYATT
BRIGADIER GENERAL JOHN E. HYTEN
BRIGADIER GENERAL RICHARD C. JOHNSTON
BRIGADIER GENERAL JAMES J. JONES
BRIGADIER GENERAL BRUCE A. LITCHFIELD
BRIGADIER GENERAL CHARLES W. LYON
BRIGADIER GENERAL WENDY M. MASIELLO
BRIGADIER GENERAL KENNETH D. MERCHANT
BRIGADIER GENERAL HARRY D. POLUMBO, JR.
BRIGADIER GENERAL JOHN D. POSNER
BRIGADIER GENERAL LORI J. ROBINSON
BRIGADIER GENERAL MARK O. SCHISSLER
BRIGADIER GENERAL MARGARET H. WOODWARD

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. ERIC E. FIEL

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. KEITH B. ALEXANDER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601, AND TO BE A SENIOR MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER TITLE 10, U.S.C., SECTION 711:

To be lieutenant general

LT. GEN. CHARLES H. JACOBY, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY 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. DANIEL P. BOLGER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY 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. DAVID P. FRIDOVICH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DONALD C. LEINS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be brigadier general

COL. NADJA Y. WEST

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE DENTAL CORPS, AND ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES, UNITED STATES ARMY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 3036 AND 3039(B):

To be major general

COL. MING T. WONG

IN THE NAVY

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 admiral

VICE ADM. JAMES A. WINNEFELD, JR.

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. CAROL M. POTTENGER

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. SCOTT R. VAN BUSKIRK

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. MARK I. FOX

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. DAVID J. VENLET

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

REAR ADM. (LH) ELIZABETH S. NIEMYER

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)

CAPT. MARGARET G. KIBBEN

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)

CAPT. DAVID M. BOONE

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)

CAPT. ROBERT J. A. GILBEAU
CAPT. GLENN C. ROBILLARD

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 JOHN C. AQUILINO
CAPTAIN SEAN S. BUCK
CAPTAIN DAVID M. DURYEA
CAPTAIN PETER J. FANTA
CAPTAIN DAVID J. GALE
CAPTAIN CHARLES M. GAOUETTE
CAPTAIN MICHAEL M. GILDAY
CAPTAIN PATRICK D. HALL
CAPTAIN JEFFREY A. HARLEY
CAPTAIN RONALD HORTON
CAPTAIN PHILIP G. HOWE
CAPTAIN KEVIN J. KOVACICH
CAPTAIN DIETRICH H. KUHLMANN III
CAPTAIN MARK C. MONTGOMERY
CAPTAIN SCOTT P. MOORE
CAPTAIN KENNETH J. NORTON
CAPTAIN TILGHMAN D. PAYNE
CAPTAIN JEFFREY R. PENFIELD
CAPTAIN FREDERICK J. ROEGGE
CAPTAIN PHILLIP G. SAWYER
CAPTAIN JOHN W. SMITH, JR.
CAPTAIN DAVID F. STEINDL
CAPTAIN KEVIN M. SWEENEY
CAPTAIN JOSEPH E. TOFALO
CAPTAIN MICHAEL A. WALLEY
CAPTAIN MICHAEL S. WHITE

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)

CAPT. BRETT C. HEIMBIGNER

CAPT. MATTHEW J. KOHLER

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)

CAPT. JAMES D. SYRING
CAPT. GREGORY R. THOMAS

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)

CAPT. MATHIAS W. WINTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF CHAPLAINS, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5142:

To be rear admiral

REAR ADM. (LH) MARK L. TIDD

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. ALLEN G. MYERS

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS 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. DUANE D. THIESSEN

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. DENNIS J. HEJLIK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL RONALD L. BAILEY
BRIGADIER GENERAL JON M. DAVIS
BRIGADIER GENERAL DAVID C. GARZA
BRIGADIER GENERAL TIMOTHY C. HANIFEN
BRIGADIER GENERAL JAMES A. KESSLER
BRIGADIER GENERAL RICHARD M. LAKE
BRIGADIER GENERAL JAMES B. LASTER
BRIGADIER GENERAL ANGELA SALINAS
BRIGADIER GENERAL PETER J. TALLERI
BRIGADIER GENERAL ROBERT S. WALSH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL BRIAN D. BEAUDREAULT
COLONEL VINCENT A. COGLIANESE
COLONEL CRAIG C. CRENSHAW
COLONEL FRANCIS L. KELLEY, JR.
COLONEL JOHN K. LOVE
COLONEL JAMES W. LUKEMAN
COLONEL CARL E. MUNDY III
COLONEL KEVIN J. NALLY
COLONEL DANIEL J. O'DONOHUE
COLONEL STEVEN R. RUDDER
COLONEL JOHN W. SIMMONS
COLONEL GARY L. THOMAS

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH RANDALL M. ASHMORE AND ENDING WITH JAMES A. SPERL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 11, 2009.

AIR FORCE NOMINATION OF CAROLYN ANN MOORE BENYSHEK, TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH ELIZABETH R. ANDERSONDOZE AND ENDING WITH KAREN M. WHARTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 10, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH SANDRA S. AGUILLON AND ENDING WITH SHAWNA A. ZIERKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 21, 2010.

AIR FORCE NOMINATION OF GERARD G. COUVILLION, TO BE COLONEL.

AIR FORCE NOMINATION OF ERIC W. ADCOCK, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH DREW C. JOHNSON AND ENDING WITH JUSTIN P. OLSEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH RONALD J. DYKSTRA AND ENDING WITH ANTHONY T. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 9, 2010.

ARMY NOMINATION OF STEPHEN T. SAUTER, TO BE COLONEL.

ARMY NOMINATION OF MILES T. GENGLER, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH DINO J. BESINGA AND ENDING WITH SANG J. WON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2010.

ARMY NOMINATIONS BEGINNING WITH JAMES J. AIELLO AND ENDING WITH WALTER C. PEREZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2010.

ARMY NOMINATION OF RAMSEY B. SALEM, TO BE COLONEL.

ARMY NOMINATION OF DOUGLAS B. GUARD, TO BE MAJOR.

ARMY NOMINATION OF CHERYL MAGUIRE, TO BE MAJOR.

ARMY NOMINATION OF SHIRLEY M. OCHOA-DOBIES, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH DAVID W. TERHUNE AND ENDING WITH PAUL E. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH JUAN G. LOPEZ AND ENDING WITH ROBERT G. SWARTS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH CHRISTOPHER T. BLAIS AND ENDING WITH JILL D. SIMONSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH DARRELL W. CARPENTER AND ENDING WITH MIST L. WRAY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH JENIFER L. BREAUX AND ENDING WITH LEON M. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH TYLER M. ABERCROMBIE AND ENDING WITH D010186, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH GREGORY J. ADY AND ENDING WITH G010044, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH EDWARD V. ABRAHAMSON AND ENDING WITH D006165, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH CARL E. STEINBECK AND ENDING WITH JENNIFER M. MCKENNA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 28, 2010.

ARMY NOMINATIONS BEGINNING WITH JAMES L. CASSARELLA AND ENDING WITH RONALD A. WESTFALL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 2010.

ARMY NOMINATIONS BEGINNING WITH ANTHONY ABBOTT AND ENDING WITH JEFFREY F. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 2010.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING WITH DAVID F. ALLEN AND ENDING WITH MARVIN A. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 21, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH JOSE M. ACEVEDO AND ENDING WITH CHAD W. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 21, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH WALTER T. ANDERSON AND ENDING WITH KENNETH M. WOODARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 4, 2010.

MARINE CORPS NOMINATIONS BEGINNING WITH STEPHEN J. ACOSTA AND ENDING WITH LUIS R. ZAMARRIPA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 4, 2010.

MARINE CORPS NOMINATION OF PETER W. MCDANIEL, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF DEAN R. KECK, TO BE LIEUTENANT COLONEL.

IN THE NAVY

NAVY NOMINATION OF JAMES H. JONES, TO BE CAPTAIN.

NAVY NOMINATION OF ENRIQUE G. MOLINA, TO BE COMMANDER.

NAVY NOMINATION OF SCOTT A. CARPENTER, TO BE COMMANDER.

NAVY NOMINATION OF CHRISTOPHER C. RICHARD, TO BE COMMANDER.

NAVY NOMINATION OF JACOB C. HINZ, TO BE COMMANDER.

NAVY NOMINATION OF STANLEY E. HOVELL, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF RIVKA L. WEISS, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF SHAWN M. STEBBINS, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF HENRY D. LANGE, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF CHRISTIE M. QUIETMEYER, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF BETH A. HOFFMAN, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATIONS BEGINNING WITH JOHN W. CHEATHAM AND ENDING WITH NOBURO YAMAKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2010.

NAVY NOMINATIONS BEGINNING WITH GREGORY M. SARACCO AND ENDING WITH LUKE A. ZABROCKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2010.

NAVY NOMINATIONS BEGINNING WITH JOHN T. FOJUT AND ENDING WITH ANNE D. RESTREPO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 14, 2010.

NAVY NOMINATION OF GREGORY J. MURREY, TO BE CAPTAIN.

NAVY NOMINATION OF PATRICK V. BAILEY, TO BE CAPTAIN.

NAVY NOMINATION OF ANDREW K. BAILEY, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF TODD J. OSWALD, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF MARIA D. JULIA-MONTANEZ, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATIONS BEGINNING WITH WILLIAM T. CARNEY AND ENDING WITH ANDREA S. STILLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 28, 2010.

NAVY NOMINATION OF FREDERICK HARRIS, TO BE COMMANDER.

NAVY NOMINATION OF PAUL N. LANGEVIN, TO BE LIEUTENANT COMMANDER.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on May 7, 2010 withdrawing from further Senate consideration the following nomination:

STEVEN L. JACQUES, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE CATHY M. MACFARLANE, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 29, 2009.