Senator from Wyoming (Mr. BARRASSO), the Senator from Florida (Mr. RUBIO), the Senator from Kansas (Mr. ROBERTS), the Senator from Idaho (Mr. CRAPO), the Senator from Alabama (Mr. SHELBY), the Senator from Maine (Ms. SNOWE), the Senator from Mississippi (Mr. WICKER), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from North Dakota (Mr. HOEVEN) were added as cosponsors of S. Res. 188, a resolution opposing State bailouts by the Federal Government.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself and Mr. GRAHAM).

S. 1025. A bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, today I am proud to introduce the National Guard Empowerment and State-National Defense Integration Act of 2011 along with my National Guard Caucus Co-Chair, Senator LINDSEY GRAHAM. Our bill builds upon earlier reforms proposed and enacted through the work of the Guard Caucus to give the Guard and Reserve a seat at the Pentagon's budget and policymaking tables and to update jurisdictional and operational lines of authority in Guard matters, recognizing that the Guard has evolved to become a front-line, 21st Century force that is still trapped in a 20th Century Pentagon bureaucracy. This bill represents a bipartisan effort to do the right thing by the men and women of our National Guard, and Senator GRAHAM and I hope that it will receive speedy consideration and passage.

Ten years ago, the National Guard of the United States was very different than the Guard protecting our country today. A young private joining the National Guard on September 10, 2001, was joining a force designed to participate in an all-out, no-holds-barred war with the Soviet Union, even though the Soviet Union had ceased to exist a decade before. When that private showed up for drill, he or she found facilities in disrepair, a Guard demoralized by inattention from Pentagon leaders, and equipment that seemed to predate the Cold War. Of course, the life of that private, and of our entire nation, would change dramatically in the days to come.

September 11, 2001, woke us up to new realities. Yes, the United States still faced threats from overseas, and like the rest of us, the National Guard wanted to do its part. But as we began to call on the Guard to deploy, those of us who pay special attention to the Guard started to ask questions. Was the Pentagon actually going to send our Guard overseas to fight with its ancient and decrepit fleet of vehicles? What about training? Who would help get these units ready for the battlefield?

Senator GRAHAM and I wish we could say that every necessary measure was taken to correct these problems before our National Guard deployed. But we are still correcting them, and that's what this piece of legislation is all about. Ever since 9/11, I worked with my friend Senator Bond to make sure that these equipment, staffing, training, and other issues that our National Guard faced would be fixed. Our efforts culminated just a few years ago in the first National Guard Empowerment Act, which accomplished things like getting the Chief of the National Guard Bureau a fourth star—and a louder voice in the Pentagon bureaucracy. Now Senator GRAHAM and I are continuing that work. We will not rest until every soldier and airman in the Guard has the training, equipment, and leadership he or she needs to accomplish the mission.

I would like to highlight a few things the bill will do. It will make the Chief of the National Guard Bureau a statutory member of the Joint Chiefs of Staff, a change we have needed for a full decade to make sure Pentagon decision makers consider the unique nature of the Guard when making decisions. The bill authorizes appropriations for Guard domestic operations. It authorizes the State Partnership Program, which has had such great success in my home state of Vermont. The bill will also help our emergency response operations. During Hurricane Katrina, we saw military forces so confused by state and federal distinctions. This bill includes a section focused on a new unity of effort plan that the Pentagon and the Department of Homeland Security have been working on with the Council of Governors and others. The bill will also clarify the relationship between the National Guard Bureau and the U.S. Northern and Pacific Commands and increase the Guard representation in U.S. Northern Command.

Overall, this bill moves our Guard and our country forward. It makes our Guard more effective in accomplishing the missions assigned to it. We ask so much of our men and women in the Guard. Senator GRAHAM and I are proud today to continue looking out for them and empowering them to get the job done when we call them away from civilian life to put on the uniform. We look forward to many of our colleagues joining us in this effort.

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. 1025

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 ''National Guard Empowerment and State-National Defense Integration Act of 2011''.

SEC. 2. REESTABLISHMENT OF POSITION OF VICE CHIEF OF THE NATIONAL GUARD BUREAU AND TERMINATION OF POSITION OF DIRECTOR OF THE JOINT STAFF OF THE NATIONAL GUARD BUREAU.

(a) REESTABLISHMENT AND TERMINATION OF POSITIONS.—Section 10505 of title 10, United States Code, is amended to read as follows:

''§ 10505. Vice Chief of the National Guard Bureau

''(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

''(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

''(B) have had at least 10 years of federally recognized service in an active status in the National Guard; and

''(C) are in a grade above the grade of colonel.

''(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

''(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

''(B) The term of the Vice Chief of the National Guard Bureau shall end within a reasonable time (as determined by the Secretary of Defense) following the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

''(b) DUTIES.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

''(c) GRADE.—The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

''(d) FUNCTIONS AS ACTING CHIEF.—When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence of disability ceases.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 10502 of such title is amended by striking subsection (e).

(2) Section 10506(a)(1) of such title is amended by striking ''and the Director of the Joint Staff of the National Guard Bureau'' and inserting ''and the Vice Chief of the National Guard Bureau''.

(c) CLERICAL AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of section 10502 of such title is amended to read as follows:

''§ 10502. Chief of the National Guard Bureau: appointment; advisor on National Guard matters; grade''.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 1011 of such title is amended—

(A) by striking the item relating to section 10502 and inserting the following new item:

''10502. Chief of the National Guard Bureau: appointment; advisor on National Guard matters; grade.''; and

(B) by striking the item relating to section 10505 and inserting the following new item:

''10505. Vice Chief of the National Guard Bureau.''.

SEC. 3. MEMBERSHIP OF THE CHIEF OF THE NATIONAL GUARD BUREAU ON THE JOINT CHIEFS OF STAFF.

(a) MEMBERSHIP ON JOINT CHIEFS OF STAFF.—Section 151(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(7) The Chief of the National Guard Bureau.''.

(b) CONFORMING AMENDMENTS.—Section 10502 of such title, as amended by section 2(b)(1) of this Act, is further amended—

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

(2) by inserting after subsection (c) the following new subsection (d):

''(d) MEMBER OF JOINT CHIEFS OF STAFF.—The Chief of the National Guard Bureau shall perform the duties prescribed for him or her as a member of the Joint Chiefs of Staff under section 151 of this title.''.

SEC. 4. CONTINUATION AS A PERMANENT PROGRAM AND ENHANCEMENT OF ACTIVITIES OF TASK FORCE FOR EMERGENCY READINESS PILOT PROGRAM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) CONTINUATION.—

(1) CONTINUATION AS PERMANENT PROGRAM.—The Administrator of the Federal Emergency Management Agency shall continue the Task Force for Emergency Readiness (TFER) pilot program of the Federal Emergency Management Agency as a permanent program of the Agency.

(2) LIMITATION ON TERMINATION.—The Administrator may not terminate the Task Force for Emergency Readiness program, as so continued, until authorized or required to terminate the program by law.

(b) EXPANSION OF PROGRAM SCOPE.—As part of the continuation of the Task Force for Emergency Readiness program pursuant to subsection (a), the Administrator shall carry out the program in at least five States in addition to the five States in which the program is carried out as of the date of the enactment of this Act.

(c) ADDITIONAL FEMA ACTIVITIES.—As part of the continuation of the Task Force for Emergency Readiness program pursuant to subsection (a), the Administrator shall—

(1) establish guidelines and standards to be used by the States in strengthening the planning and planning capacities of the States with respect to responses to catastrophic disaster emergencies; and

(2) develop a methodology for implementing the Task Force for Emergency Readiness that includes goals and standards for assessing the performance of the Task Force.

(d) NATIONAL GUARD BUREAU ACTIVITIES.—As part of the continuation of the Task Force for Emergency Readiness program pursuant to subsection (a), the Chief of the National Guard Bureau shall—

(1) assist the Administrator in the establishment of the guidelines and standards, implementation methodology, and performance goals and standards required by subsection (c);

(2) in coordination with the Administrator—

(A) identify, using catastrophic disaster response plans for each State developed under the program, any gaps in State civilian and military response capabilities that Federal military capabilities are unprepared to fill; and

(B) notify the Secretary of Defense, the Commander of the United States Northern Command, and the Commander of the United States Pacific Command of any gaps in capabilities identified under subparagraph (A); and

(3) acting through and in coordination with the Adjutants General of the States, assist the States in the development of State plans on responses to catastrophic disaster emergencies.

(e) ANNUAL REPORTS.—The Administrator and the Chief of the National Guard Bureau shall jointly submit to the appropriate committees of Congress each year a report on activities under the Task Force for Emergency Readiness program during the preceding year. Each report shall include a description of the activities under the program during the preceding year and a current assessment of the effectiveness of the program in meeting its purposes.

(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives.

SEC. 5. MEMORANDUM OF UNDERSTANDING BETWEEN DEPARTMENT OF DEFENSE AND DEPARTMENT OF HOMELAND SECURITY ON UNITY OF EFFORT IN RESPONSE OF MILITARY FORCES TO DOMESTIC EMERGENCIES.

(a) MEMORANDUM OF UNDERSTANDING REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Homeland Security shall enter into a memorandum of understanding on coordination between the Department of Defense and the Department of Homeland Security, and between the Departments and the States, in the use of military forces in response to domestic emergencies.

(2) PURPOSE.—The purpose of the memorandum is to ensure, to the maximum extent practicable, a unity of effort within the Federal Government, and between the Federal Government and the States, regarding the use of military forces in response to domestic emergencies.

(b) CONSULTATION WITH THE STATES.—In entering into the memorandum of understanding required by subsection (a), the Secretary of Defense and the Secretary of Homeland Security shall jointly consult with the Council of Governors established by Executive Order No. 13528 for purposes of coordinating plans under the memorandum of understanding with the plans of the States for the use of military forces of the States in response to domestic emergencies.

(c) SUBMITTAL TO CONGRESS.—Upon entry into the memorandum of understanding required by subsection (a), the Secretary of Defense and the Secretary of Homeland Security shall jointly submit to the appropriate committees of Congress a report on the memorandum of understanding. The report shall include the following:

(1) The memorandum of understanding.

(2) A comprehensive description of the manner in which the mechanisms set forth in the memorandum of understanding will ensure a unity of effort within the Federal Government, and between the Federal Government and the State or States concerned, regarding the use of military forces in response to domestic emergencies, including, in particular, the manner in which such mechanisms will ensure a unity of such effort between the Federal Government and the States in the use of such forces in such response.

(3) Such other matters as the Secretaries jointly consider appropriate.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriated committees of Congress'' means—

(1) the Committees on Armed Services, Homeland Security and Governmental Affairs, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Homeland Security, and Appropriations of the House of Representatives.

SEC. 6. REPORT ON COMPARATIVE ANALYSIS OF COSTS OF COMPARABLE UNITS OF THE RESERVE COMPONENTS AND THE REGULAR COMPONENTS OF THE ARMED FORCES.

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a comparative analysis of the costs of units of the regular components of the Armed Forces with the costs of similar units of the reserve components of the Armed Forces. The analysis shall include a separate comparison of the costs of units in the aggregate and of the costs of units solely when on active duty.

(2) SIMILAR UNITS.—For purposes of this subsection, units of the regular components and reserve components shall be treated as similar if such units have the same general structure, personnel, or function, or are substantially composed of personnel having identical or similar military occupational specialties (MOS).

(b) ASSESSMENT OF INCREASED RESERVE COMPONENT PRESENCE IN TOTAL FORCE STRUCTURE.—The Secretary shall include in the report required by subsection (a) an assessment of the advisability of increasing the number of units and members of the reserve components of the Armed Forces within the total force structure of the Armed Forces. The assessment shall take into account the comparative analysis conducted for purposes of subsection (a) and such other matters as the Secretary considers appropriate for purposes of the assessment.

(c) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the date of the submittal of the report required by subsection (a), the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth a review of such report by the Comptroller General. The report of the Comptroller General shall include an assessment of the comparative analysis contained in the report required by subsection (a) and of the assessment of the Secretary pursuant to subsection (b).

(d) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this section, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

SEC. 7. DISPLAY OF PROCUREMENT OF EQUIPMENT FOR THE RESERVE COMPONENTS OF THE ARMED FORCES UNDER ESTIMATED EXPENDITURES FOR PROCUREMENT IN FUTURE-YEARS DEFENSE PROGRAMS.

Each future-years defense program submitted to Congress under section 221 of title 10, United States Code, shall, in setting forth estimated expenditures and item quantities for procurement for the Armed Forces for the fiscal years covered by such program, display separately under such estimated expenditures and item quantities the estimated expenditures for each such fiscal year for equipment for each reserve component of the Armed Forces that will receive items in any fiscal year covered by such program.

SEC. 8. FISCAL YEAR 2012 FUNDING FOR THE NATIONAL GUARD FOR CERTAIN DOMESTIC ACTIVITIES.

(a) CONTINUITY OF OPERATIONS, CONTINUITY OF GOVERNMENT, AND CONSEQUENCE MANAGEMENT.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2012 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, $11,000,000.

(B) For National Guard Personnel, Air Force, $3,500,000.

(C) For Operation and Maintenance, Army National Guard, $11,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in training and operations with respect to continuity of operations, continuity of government, and consequence management in connection with response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(b) DOMESTIC OPERATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2012 for the Department of Defense, $300,000,000 for Operation and Maintenance, Defense-wide.

(2) AVAILABILITY.—The amount authorized to be appropriated by paragraph (1) shall be available for the Army National Guard and the Air National Guard for emergency preparedness and response activities of the National Guard while in State status under title 32, United States Code.

(3) TRANSFER.—Amounts under the amount authorized to be appropriated by paragraph (1) shall be available for transfer to accounts for National Guard Personnel, Army, and National Guard Personnel, Air Force, for purposes of the pay and allowances of members of the National Guard in conducting activities described in paragraph (2).

(c) JOINT OPERATIONS COORDINATION CENTERS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2012 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, $28,000,000.

(B) For National Guard Personnel, Air Force, $7,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in continuously staffing a Joint Operations Coordination Center (JOCC) in the Joint Forces Headquarters of the National Guard in each State and Territory for command and control and activation of forces in response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(d) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by subsections (a), (b), and (c) for the purposes set forth in such subsections are in addition to any other amounts authorized to be appropriated for fiscal year 2012 for the Department of Defense for such purposes.

SEC. 9. ENHANCEMENT OF AUTHORITIES RELATING TO THE UNITED STATES NORTHERN COMMAND AND OTHER COMBATANT COMMANDS.

(a) COMMANDS RESPONSIBLE FOR SUPPORT TO CIVIL AUTHORITIES IN THE UNITED STATES.—The United States Northern Command and the United States Pacific Command shall be the combatant commands of the Armed Forces that are principally responsible for the support of civil authorities in the United States by the Armed Forces.

(b) DISCHARGE OF RESPONSIBILITY.—In discharging the responsibility set forth in subsection (a), the Commander of the United States Northern Command and the Commander of the United States Pacific Command shall each—

(1) in consultation with and acting through the Chief of the National Guard Bureau and the Joint Force Headquarters of the National Guard of the State or States concerned, assist the States in the employment of the National Guard under State control, including National Guard operations conducted in State active duty or under title 32, United States Code; and

(2) facilitate the deployment of the Armed Forces on active duty under title 10, United States Code, as necessary to augment and support the National Guard in its support of civil authorities when National Guard operations are conducted under State control, whether in State active duty or under title 32, United States Code.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) MEMORANDUM REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau shall, with the approval of the Secretary of Defense, jointly enter into a memorandum of understanding setting forth the operational relationships, and individual roles and responsibilities, during responses to domestic emergencies among the United States Northern Command, the United States Pacific Command, and the National Guard Bureau.

(2) MODIFICATION.—The Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau may from time to time modify the memorandum of understanding under this subsection to address changes in circumstances and for such other purposes as the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau jointly consider appropriate. Each such modification shall be subject to the approval of the Secretary of Defense.

(d) AUTHORITY TO MODIFY ASSIGNMENT OF COMMAND RESPONSIBILITY.—Nothing in this section shall be construed as altering or limiting the power of the President or the Secretary of Defense to modify the Unified Command Plan in order to assign all or part of the responsibility described in subsection (a) to a combatant command other than the United States Northern Command or the United States Pacific Command.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of aiding the expeditious implementation of the authorities and responsibilities in this section.

SEC. 10. REQUIREMENTS RELATING TO NATIONAL GUARD OFFICERS IN CERTAIN COMMAND POSITIONS.

(a) COMMANDER OF ARMY NORTH COMMAND.—The officer serving in the position of Commander, Army North Command, shall be an officer in the Army National Guard of the United States.

(b) COMMANDER OF AIR FORCE NORTH COMMAND.—The officer serving in the position of Commander, Air Force North Command, shall be an officer in the Air National Guard of the United States.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in assigning officers to the command positions specified in subsections (a) and (b), the President should afford a preference in assigning officers in the Army National Guard of the United States or Air National Guard of the United States, as applicable, who have served as the adjutant general of a State.

SEC. 11. AVAILABILITY OF FUNDS UNDER STATE PARTNERSHIP PROGRAM FOR ADDITIONAL NATIONAL GUARD CONTACTS ON MATTERS WITHIN THE CORE COMPETENCIES OF THE NATIONAL GUARD.

(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of State, modify the regulations prescribed pursuant to section 1210 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2517; 32 U.S.C. 107 note) to provide for the use of funds available pursuant to such regulations for contacts between members of the National Guard and civilian personnel of foreign governments outside the ministry of defense on matters within the core competencies of the National Guard such as the following:

(1) Disaster response and mitigation.

(2) Defense support to civilian authorities.

(3) Consequence management and installation protection.

(4) Chemical, biological, radiological, or nuclear event (CBRNE) response.

(5) Border and port security and cooperation with civilian law enforcement.

(6) Search and rescue.

(7) Medical matters.

(8) Counterdrug and counternarcotics activities.

(9) Public affairs.

(10) Employer and family support of reserve forces.

(11) Such other matters within the core competencies of the National Guard and suitable for contacts under the State Partnership Program as the Secretary of Defense shall specify.

(b) FUNDING FOR FISCAL YEAR 2012.—There is hereby authorized to be appropriated for fiscal year 2012 for the Department of Defense for the National Guard, $50,000,000 to be available for contacts under the State Partnership Program authorized pursuant to the modification of regulations required by subsection (a).

By Mr. ENZI (for himself, Mr. JOHNSON of South Dakota, Mr. GRASSLEY, and Mr. TESTER).

S. 1026. A bill to amend the Packers and Stockyard Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENZI. Mr. President, I wish to speak on the introduction of the Livestock Marketing Fairness Act. I want to also acknowledge that I am joined in introducing this legislation by Senators TIM JOHNSON, Grassley, and Tester. Without their support this bill would not be possible. We have always enjoyed bipartisan support on this issue and I want to thank them for their work in making sure that our livestock markets remain competitive.

Our Nation's ranchers and family farmers aren't looking for handouts when they take their animals to the auction barn, they simply expect that they will receive the price they deserve for the quality they produce. However, there is evidence that there are bad actors out there who stack the deck when it comes to the prices they use in livestock contracts. The Packers & Stockyards Act was enacted at a time when there was significant concentration in the livestock and poultry industry. That law since that time has provided protection and remedy from manipulative market practices but the growth

of our markets in recent decades has opened up opportunities for new abuses that the original law never could have expected.

These opportunities for manipulation have developed as our markets have become increasingly more consolidated. The top four firms control over 69 percent of the domestic cattle slaughter and this statistic doesn't even include the acquisitions that have taken place in the industry in recent years. Gone are the days when a simple handshake between buyer and seller was all you needed.

The Livestock Marketing Fairness Act strikes at the heart of one particular anti-competitive practice. Over the years, livestock producers, feeders, and packers have been given a number of new marketing tools for price discovery and hedging risk. One of those tools is the forward contract where a buyer and seller agree to a transaction at a specified point of time in the future. However, certain types of forward contracting agreements have become ripe for price manipulation. This is because a growing number of packing operations own their own livestock or control them through marketing agreements. These firms then can buy from themselves when prices are high and buy from others when prices are low. Captive supplies are animals that packers own and control prior to slaughter. The Livestock Marketing Fairness Act prohibits certain arrangements that provide packers with the opportunity use their captive supplies to manipulate local market prices. First, the legislation requires that forward contracts contain a ''firm base price'' which is derived from an external source. Though not outlined in the legislation, commonly used external sources of price include the live cattle futures market or wholesale beef market. This ensures that both buyers and sellers have a basis for how pricing in a contract will be derived at the time the contract is agreed upon. Second, the bill requires that forward contracts be traded in open, public markets. This guarantees that multiple buyers and sellers can witness bids as well as offer their own. Some livestock markets already do this to ensure transparency but there are others who allow transactions to happen behind closed doors.

The Livestock Marketing Fairness Act also ensures that trading of contracts be done in a manner that provides both small and large buyers and sellers access to the market. Contracts are to be traded in sizes approximate to the common number of cattle or pigs transported in a trailer, but the law does not prohibit trading from occurring in multiples of those contracts for larger livestock orders.

I travel to Wyoming nearly every weekend and have heard the same concerns from many of our ranchers. They want to be competitive in the market and sell the best animals possible so that they can continue the work that so many in their family have done for so many years. However, this problem is not isolated to Wyoming. Livestock producers from coast to coast are finding that with consolidation there are fewer and fewer buyers for their animals and their options for marketing too are being lost. This legislation not only increases openness in forward contracting but preserves the right for ranchers to choose the best methods for selling their animals without worry that their agreements will be subject to manipulation. The bill does not apply to producer cooperatives who often own their processing facility. The legislation also carefully targets the problem, large packers owning captive supplies, by also exempting packers that only own one facility and those that do not report for mandatory price reporting. The Livestock Marketing Fairness Act does not apply to agreements based on quality grading nor does it affect a producer's ability to negotiate contracts one-on-one with buyers. Therefore, sellers can still choose from a variety of methods including the spot market, futures market, or other alternative marketing arrangements.

This bill is common sense and ensures that our ranchers have access to a competitive market in these difficult economic times. All our livestock producers are asking for is a level playing field and this bill helps them do what they do best, continue producing the finest meat in the world.

By Mr. UDALL of Colorado (for himself and Mr. BROWN of Massachusetts):

S. 1029. A bill to amend the Public Utility Regulatory Policies Act of 1978 to provide electric consumers the right to access certain electric energy information, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, I rise today to discuss an important issue, energy consumption. Do each of us know how much energy we actually consume? How much does our energy use affect our pocketbooks? Consumers should be able to answer these questions. That is why I am introducing the Electric Consumer Right to Know Act today.

This legislation takes a commonsense step toward broadening consumers' access to data about their electricity usage. I first began working on this issue while serving in the Colorado General Assembly back in 1997, when I introduced a bill that would have given consumers information about the price, water consumption, pollutants, and emissions used to generate the electricity they were sold. However, I am proud to say that this refined transparency bill—which gives consumers access to their energy use and price—was developed directly from the input of Coloradans who participated in my energy jobs summit in Denver in February 2010.

In today's marketplace, consumers have a clear understanding of what their car mileage means for their wallet. They also have ready access to the number of minutes remaining on their cell phone. However, consumers lack clear, timely data about their electricity use and its price. Providing increased transparency will help consumers with their decisions about electricity usage in their homes or businesses.

The Electric Consumer Right to Know Act, or E–Know Act, would provide this transparency by establishing consumers' clear right to access data on their own electricity usage. This right is an important step toward a more effective, reliable and efficient electric grid, and a step toward helping consumers use electricity more efficiently and save money on their electric bills.

For the past two years, I have been traveling across Colorado as part of a work force tour to talk directly to Coloradans and hear their innovative policy ideas to create jobs. I also hosted an Energy Jobs Summit in Denver in February 2010. As part of this summit, we asked experts in energy policy and business to join us for a conversation about how we can better position Colorado and the United States to lead in the 21st century clean energy economy and win the global economic race.

We heard from U.S. Energy Secretary Steven Chu, then-Governor Bill Ritter, Senator MICHAEL BENNET, and Congressman ED PERLMUTTER. But, more importantly, we heard from Coloradans who came to share their views on what the federal government can do, or in some instances not do, to support job creation and transition to cleaner and more efficient energy use.

One consumer participant at the summit noted that even though he had a smart meter at his home, his power company would not let him access his electrical meter readings to learn how he was using electricity. If he could access those readings, he could better understand his energy use, learn how to be more energy efficient and save money. That is why I am reintroducing E–Know Act today, to improve communication between the consumers and their utility and spur innovation in developing creative technologies that will save energy.

The bill directs the Federal Regulatory Energy Commission to convene an open, extensive and inclusive stakeholder process to work through the details of this measure to ensure that implementing the consumers' right to access their information also retains consumer privacy, and ensures the integrity and reliability of the grid.

The outcome of this process will create national guidelines establishing the right of consumers to access their electricity data, including minimum national standards that utilities must meet to ensure that right of access. In developing those minimum standards, the FERC will take into consideration the ongoing and important work at the National Institute of Standards and

Technology in developing a smart grid roadmap, as well as the innovative state and local programs already being developed across the country to integrate smart meters into the electrical grid, including Colorado, California, Texas, Pennsylvania, and others.

In my home state of Colorado, Xcel Energy has been working with the city of Boulder on a pilot program called SmartGridCity to develop a community-scale smart grid with over 20,000 residents participating. In Fort Collins, Colorado, the business community and utilities have teamed up to form the FortZED project with the goal of turning the downtown into a net zero energy district using smart technology. I am proud to see Coloradans and others around the country taking important steps together in learning how to make the grid more reliable, efficient, and help save everyone money.

Finally, part of ensuring the right to access your data includes the right to retain the privacy of your data. When consumers gain access to their data, they will also need to clearly understand how it will be used, especially when consumers grant third-party access to it. This is why this bill states that the FERC will establish, among other important measures, guidelines for consumer consent requirements. Retaining privacy is critical to building consumer trust in the smart grid and facilitating the transition of the smart grid to an integral part of everyday life for every American family.

I look forward to working with my colleagues from both parties and all interested stakeholders in establishing this right, defining it in a way that eliminates unintended consequences, and enforcing this right in a way that promotes the efficient use of electrical energy.

This bill is an important first step in implementing smart meters across the country, moving us toward an electrical grid that is more reliable and more efficient, a ''smart grid,'' if you will. There are several pieces of the puzzle that will be required to realize that future, and one critical part of that puzzle is the right of consumers to access their electricity data. I urge my colleagues of both parties to join me in supporting this important legislation.

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

S. 1029

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 ''Electric Consumer Right to Know Act'' or the ''e-KNOW Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) improving consumers' understanding of and access to the electric energy usage information of the consumers will help consumers more effectively manage usage;

(2) consumers have a right of access to the electric energy usage information of the consumers;

(3) the right of access to electric energy usage information should be based on the need to have access to the information rather than on a specific type of smart metering technology and, as a result, all usage information platforms can compete and innovation will be fostered;

(4) utilities should provide electric energy usage information based on the best capabilities of the metering technology currently deployed in the respective service areas or, on upgrade, based on standards recognized by the National Institute of Standards and Technology;

(5) consumers should have the ability to access unaudited usage information directly from the electric meters of the consumers or from sources independent of the electric meters, and from sources independent of the utilities of the consumers;

(6) consumers should retain the right to the privacy and security of electric energy usage information of the consumers created through usage;

(7) consumers should have the right to control the electric energy usage information of the consumers and the right to privacy for the information when third party aggregators of data are involved in creation, management, or collection of the information; and

(8) consumers should have the right to know how the authorized third-party data manager of the consumers will manage the retail electric energy information of the consumers once the manager has accessed the information.

SEC. 3. ELECTRIC CONSUMER RIGHT TO ACCESS ELECTRIC ENERGY INFORMATION.

(a) IN GENERAL.—Title II of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC CONSUMER RIGHT TO ACCESS ELECTRIC ENERGY INFORMATION.

''(a) DEFINITIONS.—In this section:

''(1) RETAIL ELECTRIC ENERGY INFORMATION.—The term 'retail electric energy information' means—

''(A) the electric energy consumption of an electric consumer over a defined time period;

''(B) the retail electric energy prices or rates applied to the electricity usage for the defined time period described in subparagraph (A) for the electric consumer;

''(C) the cost of usage by the consumer, including (if smart meter usage information is available) the estimated cost of usage since the last billing cycle of the consumer; and

''(D) in the case of nonresidential electric meters, any other electrical information that the meter is programmed to record (such as demand measured in kilowatts, voltage, frequency, current, and power factor).

''(2) SMART METER.—Except as provided in subsection (e), the term 'smart meter' means the device used by an electric utility that—

''(A)(i) measures electric energy consumption by an electric consumer at the home or facility of the electric consumer in intervals of 1 hour or less; and

''(ii) is capable of sending electric energy usage information through a communications network to the electric utility; or

''(B) meets the guidelines issued under subsection (h).

''(b) CONSUMER RIGHTS.—

''(1) IN GENERAL.—Each electric consumer in the United States shall have the right to access (and to authorize 1 or more third parties to access) retail electric energy information of the electric consumer in—

''(A) an electronic form, free of charge, in conformity with nationally recognized open standards developed by a nationally recognized standards organization; and

''(B) a manner that is timely and convenient and provides adequate protections for the security of the information and the privacy of the electric consumer.

''(2) SMART METERS.—In the case of an electric consumer that is served by a smart meter that can also communicate energy usage information to a device or network of an electric consumer or a device or network of a third party authorized by the consumer, the consumer shall, at a minimum, have the right to access (and to authorize 1 or more third parties to access) usage information in read-only format directly from the smart meter.

''(3) PROVIDER OF INFORMATION.—The information required under this subsection shall be provided by the electric utility of the consumer or such other entity as may be designated by the applicable electric retail regulatory authority.

''(c) INFORMATION.—The right to access retail electric energy information under subsection (b) includes, at a minimum—

''(1)(A) in the case of an electric consumer that is served by a smart meter, the right to access retail electric energy information—

''(i) in machine readable form, not more than 48 hours after consumption has occurred; or

''(ii) in accordance with the guidelines issued under subsection (h); or

''(B) in the case of an electric consumer that is not served by a smart meter, the right to access retail electric energy information in machine readable form as expeditiously after the time of receipt in a data center (including information provided by third party services) as is reasonably practicable and as prescribed by the applicable electric retail regulatory authority; and

''(2) except as otherwise provided in subsection (d)—

''(A) in the case of an electric consumer that is served by a smart meter, data at a granularity that is—

''(i) not less granular than the intervals at which the data is recorded and stored by the billing meter in use at the premise of the electric consumer; or

''(ii) in accordance with the guidelines issued under subsection (h); and

''(B) in the case of an electric consumer that is not served by a smart meter, data at granularity equal to the data used for billing the electric consumer, or more precise granularity, as prescribed by the applicable electric retail regulatory authority.

''(d) ELECTRIC ENERGY INFORMATION RETENTION.—An electric consumer shall have the right to access the retail electric energy information of the consumer, through the website of the electric utility or other electronic access authorized by the electric consumer, for a period of at least 13 months after the date on which the usage occurred, unless a different period is prescribed by the applicable electric retail regulatory authority.

''(e) DATA SECURITY.—Access described in subsection (d) shall not interfere with or compromise the integrity, security, or privacy of the operations of a utility and the electric consumer, in accordance with the guidelines issued by the Commission under subsection (h).

''(f) COST RECOVERY.—An electric utility providing retail electric energy information in accordance with otherwise applicable regulation of rates for the retail sale and delivery of electricity may recover in rates the cost of providing the information, if the cost is determined reasonable and prudent by the applicable electric retail regulatory authority.

''(g) ADDITIONAL AVAILABLE INFORMATION.—The right to access electric energy information shall extend to usage information generated by devices in or on the property of the

consumer that is transmitted to the electric utility.

''(h) GUIDELINES FOR ELECTRIC CONSUMER ACCESS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall (after consultation with State and local regulatory authorities, including the National Association of Regulatory Utility Commissioners, the Secretary of Energy, other appropriate Federal agencies, including the National Institute of Standards and Technology, consumer advocacy groups, utilities, and other appropriate entities, and after notice and opportunity for comment) issue guidelines that establish minimum national standards for implementation of the electric consumer right to access retail electric energy information under subsection (b).

''(2) STATE AND LOCAL REGULATORY ACTION.—In issuing the guidelines, the Commission shall, to the maximum extent practicable, be guided by actions taken by State and local regulatory authorities to ensure electric consumer access to retail electric energy information, including actions taken after consideration of the standard under section 111(d)(17).

''(3) CONTENT.—The guidelines shall provide guidance on issues necessary to carry out this section, including—

''(A) the timeliness and granularity of retail electric energy information;

''(B) appropriate nationally recognized open standards for data;

''(C) a definition of the term 'smart meters'; and

''(D) protection of data security and electric consumer privacy, including consumer consent requirements.

''(4) REVISIONS.—The Commission shall periodically review and, as necessary, revise the guidelines to reflect changes in technology and the market for electric energy and services.

''(i) ENFORCEMENT.—

''(1) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—If the attorney general of a State, or another official or agency of a State with competent authority under State law, has reason to believe that any electric utility that delivers electric energy at retail in the applicable State is not complying with the minimum standards established by the guidelines under subsection (h), the attorney general, official, or agency of the State, as parens patriae, may bring a civil action against the electric utility, on behalf of the electric consumers receiving retail service from the electric utility, in a district court of the United States of appropriate jurisdiction, to compel compliance with the standards.

''(2) SAFE HARBOR.—

''(A) IN GENERAL.—No civil action may be brought against an electric utility under paragraph (1) if the Commission has, during the 2-year period ending on the date of the determination, determined that the electric utility adopted policies, requirements, and measures, as necessary, that comply with the standards established by the guidelines under subsection (h).

''(B) PROCEDURES.—The Commission shall establish procedures to review the policies, requirements, and measures of electric utilities to assess, and issue determinations with regard to, compliance with the standards.

''(3) EFFECTIVE DATE.—This subsection takes effect on the date that is 2 years after the date the guidelines under subsection (h) are issued.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Public Utility Regulatory Policies Act of 1978 is amended by adding at the end of the items relating to title II the following:

''Sec. 215. Electric consumer right to access electric energy information.''.

By Mr. WYDEN:

S. 1033. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the City of Hermiston, Oregon, water recycling and reuse project, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am reintroducing legislation to authorize the Bureau of Reclamation to share in the cost of the construction of a new wastewater treatment plant for Hermiston, Oregon. The bill is identical to legislation which passed the House of Representatives in the previous Congress, by voice vote, and which was reported by the Senate Energy and Natural Resources Committee without opposition last year.

The reason for involving the Bureau in this project is quite simple. Once constructed, the plant will provide the Bureau-authorized West Extension Irrigation District with enough additional high-quality water per year to irrigate approximately 600 acres of high value crops. This will have a significant, long-term benefit to the farming industry in the Hermiston area.

The Hermiston project has gotten the sign off at every level from the local irrigation district to Federal agencies. The City and the Bureau have completed the required feasibility report and the Bureau of Reclamation has formally concluded that the project meets the requirements of the Title XVI cost-sharing program. The regional office of the National Marine Fisheries Service at NOAA has completed a biological opinion approving the project. The City and the West Extension Irrigation District have signed a memorandum of understanding to work together to develop the project. The Bureau has concluded its environmental review of the authorization to transfer the water to the District and issued a finding of no significant impact or FONSI.

Although the Bureau will be sharing in the cost of the project, I want my colleagues to know that the City, not the Bureau, will be responsible for the bulk of the expense. CBO has estimated that the Federal share of the $26 million project would be $7 million or just over one-quarter of the cost.

The Confederated Tribes of the Umatilla Indian Reservation have also recognized the benefits of the project and support it. These benefits include a significant improvement in the quality of water discharged to the Umatilla River in winter and protection of sensitive fish habitat during summer. These benefits have led the tribe to endorse construction of the Hermiston Water Recycling System Improvement Project and the City's effort to obtain federal funding.

This project will increase agricultural production while improving the local economy, the environment and habitat for endangered fish. I look forward to working with my colleagues to complete action on this legislation after it had advanced so far in the last Congress.

By Mr. CARDIN (for himself and Mr. VITTER):

S. 1036. A bill to amend title 40, United States Code, to ensure that job opportunities for people who are blind and people with significant disabilities are met by requiring the application of the Javits-Wagner-O'Day Act to certain lease agreements entered into by the Federal Government for private buildings or improvements; to the Committee on Environment and Public Works.

Mr. CARDIN. Mr. President, today Senator VITTER and I are introducing legislation to ensure and protect the jobs of thousands of individuals who are blind or have significant disabilities and provide important services to the U.S. Government and taxpayers alike.

In 1938, during the Franklin Delano Roosevelt Administration, Congress passed the Wagner-O'Day Act to help provide employment opportunities for people who are blind. At the time, most of the work the Wagner-O'Day Act created was in manufacturing mops and brooms that would be sold for use in Federal Government buildings and facilities.

In 1971, under the leadership of New York Republican Senator Jacob Javits, Congress amended the act to include people with significant disabilities and expand the program to also include services provided to the Federal Government.

The Javits-Wagner-O'Day Program eventually changed its name to ''AbilityOne.'' Today, this expanded work program for people who are blind or have significant disabilities provides Federal customers, including the U.S. Senate, with a wide array of products, like wall mounted clocks, paint, military uniforms, hardware and cleaning supplies. AbilityOne also helps put people to work in service positions, like call center operations, grounds-keeping, food service, administration and processing positions, and vehicle fleet maintenance.

People who are blind or have significant disabilities struggle particularly hard to find work. While the current job climate is challenging for all Americans, the employment rate for individuals in this group hovers around 30 percent. Oftentimes these individuals must rely on taxpayer funded government entitlement programs like Medicaid, SNAPS—food stamps—supplemental security income, and subsidized housing. AbilityOne helps these Americans find jobs and alleviates the expenditures of these entitlement programs.

Recent independent studies of the AbilityOne Program found that in just the four business lines analyzed, the AbilityOne Program saved the Government $34 million in both reduction of

entitlements and increases in income and payroll taxes.

AbilityOne provides nearly 48,000 people who are blind or who have significant disabilities with quality job opportunities, to earn a living which provides a pathway towards increased independence.

There are nearly 600 nonprofit organizations across the country working to find job opportunities for people who are blind or have significant disabilities, through the AbilityOne program. With Maryland's proximity to the seat of the Federal Government, AbilityOne creates considerable job opportunities in the service sector for Marylanders with disabilities.

However, there is a growing trend among Federal facilities that is undoing the progress that the AbilityOne Program has made and in turn is contributing to the growth of unemployment for Americans with disabilities. The bill Senator VITTER and I are introducing today aims to address this problem.

More and more Federal facilities are moving out of federally owned and operated properties and into leased space in privately owned buildings and facilities. The General Services Administration estimates that the Federal Government leases more than 7,300 buildings in more than 2,000 communities across the country. When GSA has sought lease space in Maryland I have generally supported these moves.

Federally leased properties create terrific economic opportunities for the business districts they come to. Federally leased properties bring revenues for State and local governments, increase the tax base of the regions they come to and often provide the backbone for small business growth and consulting services around the federally leased facilities.

The economic opportunities a Federal lease on private real estate provides for a community are great for everyone except for service workers with disabilities who are no longer helped by AbilityOne because federally leased space falls outside the scope of the Javits-Wagner-O'Day Act.

As the law is written, Javits-Wagner-O'Day only applies to federally owned and operated facilities.

Our bill makes a simple and practical fix to the Javits-Wagner-O'Day Act to apply the AbilityOne Program services to federally leased space. My bill states that when the Federal Government occupies 60 percent or more of the usable space within a private building or facility that the Federal Government, the lessor, or property manager must comply with the service contract procurement requirements of the Javits-Wagner-O'Day Act.

The Javits-Wagner-O'Day Act, and the thousands of men and women who have found employment opportunities through the AbilityOne Program, have a proven track record of success in terms of providing exceptional services and products for the Federal Government at rates that make for very sound spending of taxpayer dollars.

Finding job opportunities has always been a challenge for individuals who are blind or have significant disabilities. We must maintain the Federal Government's commitment to these hard working Americans.

I urge my colleagues to join Senator VITTER and me in cosponsoring the AbilityOne Improvements Act.

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. 1036

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 ''AbilityOne Improvements Act''.

SEC. 2. APPLICABILITY OF JAVITS-WAGNER-O'DAY ACT.

Section 585(a) of title 40, United States Code, is amended by adding at the end the following:

''(3) APPLICABILITY OF JAVITS-WAGNER-O'DAY ACT.—A lease agreement for space under this section for the accommodation of a federal agency as described in paragraph (1) that is issued or renewed after the date of enactment of this paragraph shall require the federal agency, lessor, or property manager to comply with provisions of the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.) that are applicable to federal buildings if—

''(A) the lease is for 60 percent or more of the useable space on the property or improvement in which 1 or more federal agencies are to be accommodated, as determined by the Administrator; or

''(B) the federal agency to be accommodated under the lease is, as of the date of the lease, required to contract pursuant to that Act for services being transitioned to the leased space.''.

By Mr. REID (for himself and Mr. MCCONNELL):

S. 1038. A bill to extend the expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes; read twice.

Mr. REID. 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. 1038

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 ''PATRIOT Sunsets Extension Act of 2011''.

SEC. 2. SUNSET EXTENSIONS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is amended by striking ''May 27, 2011'' and inserting ''June 1, 2015''.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 1801 note) is amended by striking ''May 27, 2011'' and inserting ''June 1, 2015''.

By Mr. CARDIN (for himself, Mr. MCCAIN, Ms. AYOTTE, Mr. BEGICH, Mr. BLUMENTHAL, Mr. DURBIN, Mr. JOHANNS, Mr. KIRK, Mr. KYL, Mr. LIEBERMAN, Mr. RUBIO, Mrs. SHAHEEN, Mr. WHITEHOUSE, and Mr. WICKER):

S. 1039. A bill to impose sanctions on persons responsible for the detention, abuse, or death of Sergei Magnitsky, for the conspiracy to defraud the Russian Federation of taxes on corporate profits through fraudulent transactions and lawsuits against Hermitage, and for other gross violations of human rights in the Russian Federation, and for other purposes; to the Committee on Foreign Relations.

Mr. CARDIN. Mr. President, I rise today to introduce the Sergei Magnitsky Rule of Law Accountability Act of 2011.

While this bill bears Sergei Magnitsky's name in honor of his sacrifice, the language addresses the overall issue of the erosion of the rule of law and human rights in Russia. It offers hope to those who suffer in silence, whose cases may be less known or not known at all.

While there are many aspects of Sergei's and other tragic cases which are difficult to pursue here in the United States, there are steps we can take and an obvious and easy one is to deny the privilege of visiting our country to individuals involved in gross violations of human rights. Visas are privileges not rights and we must be willing to see beyond the veil of sovereignty that kleptocrats often hide behind. They do this by using courts, prosecutors, and police as instruments of advanced corporate raiding and hope outsiders are given pause by their official trappings of office and lack of criminal records. Further, we must protect our strategic financial infrastructure from those who would use it to launder or shelter ill-gotten gains.

Despite occasional rhetoric from the Kremlin, the Russian leadership has failed to follow through with any meaningful action to stem rampant corruption or bring the perpetrators of numerous and high-profile human rights abuses to justice.

My legislation simply says if you commit gross violations of human rights don't expect to visit Disneyland, Aspen, or South Beach and expect your accounts to be frozen if you bank with us. This may not seem like much, but in Russia the richer and more powerful you get the more danger you are exposed to from others harboring designs on your fortune and future.

Thus many are standing near the doors and we can certainly close at least one of those doors. I know that others, especially in Europe and Canada are working on similar sanctions.

I first learned about Sergei Magnitsky while he was still alive

when his client William Browder, CEO of Hermitage Capital, testified at a hearing on Russia that I held as Chairman of the Commission on Security and Cooperation in Europe in June 2009.

At the Helsinki Commission we hear so many heartbreaking stories of the human cost of trampling fundamental freedoms and it's a challenge not to give up hope and yield to the temptation of cynicism and become hardened to the suffering around us or to reduce a personal tragedy to yet another issue. While we use trends, numbers, and statistics to help us understand and deal with human rights issues, we must never forget the face of the individual person whose reality is the issue and the story of Sergei Magnitsky is as unforgettable as it is heartbreaking.

Sergei Magnitsky was a young Russian tax lawyer employed by an American law firm in Moscow who blew the whistle on the largest known tax fraud in Russian history. After discovering this elaborate scheme, Sergei Magnitsky testified to the authorities detailing the conspiracy to defraud the Russian people of approximately $230 million and naming the names of those officials involved. Shortly after his testimony, Sergei was arrested by subordinates of the very law enforcement officers he had implicated in this crime. He was held in detention for nearly a year without trial under torturous conditions. He developed severe medical complications, which went deliberately untreated and he died in an isolation cell while prison doctors waited outside his door on November 16, 2009.

Sadly, Sergei Magnitsky joins the ranks of a long list of Russian heroes who lost their lives because they stood up for principle and for truth. These ranks include Natalia Estemirova a brave human rights activist shot in the head and chest and stuffed into the trunk of a car, Anna Politkovskaya an intrepid reporter shot while coming home with an arm full of groceries, and too many others.

Often in these killings there is a veil of plausible deniability, gunmen show up in the dark and slip away into the shadows, but Sergei, in inhuman conditions, managed to document in 450 complaints exactly who bears responsibility for his false arrest and death. We must honor his sacrifice and do all we can to learn from this tragedy that others may not share his fate.

Few are made in the mold of Sergei Magnitsky, able to withstand barbaric deprivations and cruelty without breaking and certainly none of us would want to be put to the test. A man of such character is fascinating and in some ways disquieting because we suspect deep down that we might not have what it takes to stay loyal to the truth under such pressure. Magnitsky's life and tragic death remind us all that some things are more valuable than success, comfort, or even life itself—truth is one of those things. May his example be a rebuke to those whose greed or cowardice has blinded them to their duties, an inspiration to still greater integrity for those laboring quietly in the mundane yet necessary tasks of life, and a comfort to those wrongly accused.

The Wall Street Journal described Sergei Magnitsky's death as a ''slow-motion assassination,'' while the Moscow Prison Oversight Committee called it a ''murder to conceal a fraud.'' Pulitzer Prize-winning reporter Ellen Barry writing in the New York Times stated that, ''Magnitsky's death in pretrial detention at the age of 37 . . . sent shudders through Moscow's elite. They saw him—a post-Soviet young urban professional, as someone uncomfortably like themselves.''

Outside the media, President of the European Parliament Jerzy Buzek noted that ''Sergei Magnitsky was a brave man, who in his fight against corruption was unjustifiably imprisoned under ruthless conditions and then died in jail without receiving appropriate medical care.'' While Transparency International observed that, ''Sergei did what to most people seems impossible: he battled as a lone individual against the power of an entire state. He believed in the rule of law and integrity, and died for his belief.''

One might have thought that after the worldwide condemnation of Sergei Magnitsky's arrest, torture, and death in the custody, the Russian government would have identified and prosecuted those responsible for this heinous crime. Instead, the government has not prosecuted a single person and many of the key perpetrators went on to receive promotions and the highest state honors from the Russian Interior Ministry. Moreover, the officers involved feel such a sense of impunity that they are now using all instruments of the Russian state to pursue and punish Magnitsky's friends and colleagues who have been publicly fighting for justice in his case.

They have forced the American founding partner of Magnitsky's firm, Jamison Firestone, to flee Russia in fear for his safety in the months following his colleague's death after learning that the same people were attempting to take control of an American client's Russian companies and commit a similar fraud. And they have used the same criminal case that was used to falsely arrest Magnitsky to indict Sergei's client Bill Browder. They have opened up retaliatory criminal cases against many of Hermitage's employees and all of its lawyers, who were forced to leave Russia to save their own lives. These attacks have only intensified since my colleague and friend Congressman JIM MCGOVERN introduced the Justice for Sergei Magnitsky Act of 2011, a similar measure in the House of Representatives, last month.

In the struggle for human rights we must never be indifferent. On this point, I am reminded of Elie Wiesel's hauntingly eloquent speech, The Perils of Indifference which he delivered at the White House in 1999. On this ever-present danger and demoralizer he cautions us, ''Indifference elicits no response. Indifference is not a response. Indifference is not a beginning, it is an end. And, therefore, indifference is always the friend of the enemy, for it benefits the aggressor—never his victim, whose pain is magnified when he or she feels forgotten. The political prisoner in his cell, the hungry children, the homeless refugees—not to respond to their plight, not to relieve their solitude by offering them a spark of hope is to exile them from human memory. And in denying their humanity we betray our own.''

Speaking of our humanity, I offer the following words as a contrast. They are from Russian playwright Mikhail Ugarov who created One Hour Eighteen, which is the exact amount of time it took for Sergei Magnitsky to die in his isolation cell at Moscow's Matrosskaya Tishina prison. Ugarov asks, ''When a person puts on the uniform of a public prosecutor, the white lab coat of a doctor, or the black robe of a judge, does he or she inevitably lose their humanity? Do they lose their ability to—even in a small way—empathize with a fellow human being? In the case of Sergei Magnitsky, each of the people who assumed these professional duties in the case left their humanity behind.''

The coming year will be a significant moment in the evolution of Russian politics. With Duma elections scheduled for the end of 2011 and presidential elections for early 2012, there is an opportunity for the Russian government to reverse what has been a steady trajectory away from the rule of law and respect for human rights and toward authoritarianism.

Private and even public expressions of concern are not a substitute for a real policy nor are they enough, it's time for consequences. The bill I introduce today sends a strong message to those who are currently acting with impunity in Russia that there will be consequences for corruption should you wish to travel to and invest in the United States. Such actions will provide needed moral support for those in Russia doing the really heavy-lifting in fighting corruption and promoting the rule of law, but they will also protect our own interests—values or business related.

We see before us a tale of two Russias, the double headed eagle if you will. To whom does the future of Russia belong? Does it belong to the Yevgenia Chirikovas, Alexey Navalnys, Oleg Orlovs and countless other courageous, hard working, and patriotic Russians who expose corruption and fight for human rights or those who inhabit the shadows abusing and stealing from their fellow citizens?

Let us not put aside our humanity out of exaggerated and excessively cautious diplomatic concerns for the broader relationship. Let us take the long view and stand on the right side—

and I believe the wise side—with the Russian people who have suffered so much for the cause of liberty and human dignity. They are the ones who daily risk their safety and freedom to promote those basic principles enshrined in Russian law and many international commitments including the Helsinki Final Act. They are the conscience of Russia. Let us tell them with one voice that they are not alone and that concepts like the rule of law and human rights are not empty words for this body and for our government. I urge my colleagues to support this bill.

I ask unanimous consent that 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. 1039

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 ''Sergei Magnitsky Rule of Law Accountability Act of 2011''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States supports the people of the Russian Federation in their efforts to realize their full economic potential and to advance democracy, human rights, and the rule of law.

(2) The Russian Federation—

(A) is a member of the United Nations, the Organization for Security and Co-operation in Europe, the Council of Europe, and the International Monetary Fund;

(B) has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the United Nations Convention against Corruption; and

(C) is bound by the legal obligations set forth in the European Convention on Human Rights.

(3) States voluntarily commit themselves to respect obligations and responsibilities through the adoption of international agreements and treaties, which must be observed in good faith in order to maintain the stability of the international order. Human rights are an integral part of international law, and lie at the foundation of the international order. The protection of human rights, therefore, particularly in the case of a country that has incurred obligations to protect human rights under an international agreement to which it is a party, is not left exclusively to the internal affairs of that country.

(4) Good governance and anti-corruption measures are instrumental in the protection of human rights and in achieving sustainable economic growth, which benefits both the people of the Russian Federation and the international community through the creation of open and transparent markets.

(5) Systemic corruption erodes trust and confidence in democratic institutions, the rule of law, and human rights protections. This is the case when public officials are allowed to abuse their authority with impunity for political or financial gains in collusion with private entities.

(6) The Russian nongovernmental organization INDEM has estimated that corruption amounts to hundreds of billions of dollars a year, an increasing share of the gross domestic product of the Russian Federation.

(7) The President of the Russian Federation, Dmitry Medvedev, has addressed corruption in many public speeches, including stating in his 2009 address to Russia's Federal Assembly, ''[Z]ero tolerance of corruption should become part of our national culture. . . . In Russia we often say that there are few cases in which corrupt officials are prosecuted. . . . [S]imply incarcerating a few will not resolve the problem. But incarcerated they must be.''. President Medvedev went on to say, ''We shall overcome underdevelopment and corruption because we are a strong and free people, and deserve a normal life in a modern, prosperous democratic society.''. Furthermore, President Medvedev has acknowledged Russia's disregard for the rule of law and used the term ''legal nihilism'' to describe a criminal justice system that continues to imprison innocent people.

(8) The systematic abuse of Sergei Magnitsky, including his repressive arrest and torture in custody by the same officers of the Ministry of the Interior of the Russian Federation that Mr. Magnitsky had implicated in the embezzlement of funds from the Russian Treasury and the misappropriation of 3 companies from his client, Hermitage, reflects how deeply the protection of human rights is affected by corruption.

(9) The politically motivated nature of the persecution of Mr. Magnitsky is demonstrated by—

(A) the denial by all state bodies of the Russian Federation of any justice or legal remedies to Mr. Magnitsky during the nearly 12 full months he was kept without trial in detention; and

(B) the impunity of state officials he testified against for their involvement in corruption and the carrying out of his repressive persecution since his death.

(10) Mr. Magnitsky died on November 16, 2009, at the age of 37, in Matrosskaya Tishina Prison in Moscow, Russia, and is survived by a mother, a wife, and 2 sons.

(11) The Public Oversight Commission of the City of Moscow for the Control of the Observance of Human Rights in Places of Forced Detention, an organization empowered by Russian law to independently monitor prison conditions, concluded, ''A man who is kept in custody and is being detained is not capable of using all the necessary means to protect either his life or his health. This is a responsibility of a state which holds him captive. Therefore, the case of Sergei Magnitsky can be described as a breach of the right to life. The members of the civic supervisory commission have reached the conclusion that Magnitsky had been experiencing both psychological and physical pressure in custody, and the conditions in some of the wards of Butyrka can be justifiably called torturous. The people responsible for this must be punished.''.

(12) According to the Financial Times, ''A commission appointed by President Dmitry Medvedev has found that Russian police fabricated charges against an anti-corruption lawyer [Sergei Magnitsky], whose death in prison in 2009 has come to symbolise pervasive corruption in Russian law enforcement.''.

(13) The second trial and verdict against former Yukos executives Mikhail Khodorkovsky and Platon Lebedev evokes serious concerns about the right to a fair trial and the independence of the judiciary in the Russian Federation. The lack of credible charges, intimidation of witnesses, violations of due process and procedural norms, falsification or withholding of documents, denial of attorney-client privilege, and illegal detention in the Yukos case are highly troubling. The Council of Europe, Freedom House, and Amnesty International, among others, have concluded that they were charged and imprisoned in a process that did not follow the rule of law and was politically influenced. Furthermore, senior officials of the Government of the Russian Federation have acknowledged that the arrest and imprisonment of Khodorkovsky were politically motivated.

(14) According to Freedom House's 2011 report entitled ''The Perpetual Battle: Corruption in the Former Soviet Union and the New EU Members'', ''[t]he highly publicized cases of Sergei Magnitsky, a 37-year-old lawyer who died in pretrial detention in November 2009 after exposing a multimillion-dollar fraud against the Russian taxpayer, and Mikhail Khodorkovsky, the jailed business magnate and regime critic who was sentenced at the end of 2010 to remain in prison through 2017, put an international spotlight on the Russian state's contempt for the rule of law. . . . By silencing influential and accomplished figures such as Khodorkovsky and Magnitsky, the Russian authorities have made it abundantly clear that anyone in Russia can be silenced.''.

(15) Sergei Magnitsky's experience, while particularly illustrative of the negative effects of official corruption on the rights of an individual citizen, appears to be emblematic of a broader pattern of disregard for the numerous domestic and international human rights commitments of the Russian Federation and impunity for those who violate basic human rights and freedoms.

(16) The tragic and unresolved murders of Nustap Abdurakhmanov, Maksharip Aushev, Natalya Estemirova, Akhmed Hadjimagomedov, Umar Israilov, Paul Klebnikov, Anna Politkovskaya, Saihadji Saihadjiev, and Magomed Y. Yevloyev, the death in custody of Vera Trifonova, the disappearances of Mokhmadsalakh Masaev and Said-Saleh Ibragimov, the torture of Ali Israilov and Islam Umarpashaev, the near-fatal beatings of Mikhail Beketov, Oleg Kashin, Arkadiy Lander, and Mikhail Vinyukov, and the harsh and ongoing imprisonment of Mikhail Khodorkovsky, Alexei Kozlov, Platon Lebedev, and Fyodor Mikheev further illustrate the grave danger of exposing the wrongdoing of officials of the Government of the Russian Federation, including Chechen leader Ramzan Kadyrov, or of seeking to obtain, exercise, defend, or promote internationally recognized human rights and freedoms.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMITTED; ALIEN.—The terms ''admitted'' and ''alien'' have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Financial Services, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives; and

(B) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate.

(3) FINANCIAL INSTITUTION; DOMESTIC FINANCIAL AGENCY; DOMESTIC FINANCIAL INSTITUTION.—The terms ''financial institution'', ''domestic financial agency'', and ''domestic financial institution'' have the meanings given those terms in section 5312 of title 31, United States Code.

(4) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

SEC. 4. IDENTIFICATION OF PERSONS RESPONSIBLE FOR THE DETENTION, ABUSE, AND DEATH OF SERGEI MAGNITSKY, THE CONSPIRACY TO DEFRAUD THE RUSSIAN FEDERATION OF TAXES ON CERTAIN CORPORATE PROFITS, AND OTHER GROSS VIOLATIONS OF HUMAN RIGHTS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of the Treasury, shall publish a list of each person the Secretary of State has reason to believe—

(1)(A) is responsible for the detention, abuse, or death of Sergei Magnitsky;

(B) participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky; or

(C) committed those frauds discovered by Sergei Magnitsky, including conspiring to defraud the Russian Federation of taxes on corporate profits through fraudulent transactions and lawsuits against the foreign investment company known as Hermitage and to misappropriate entities owned or controlled by Hermitage; or

(2) is responsible for extrajudicial killings, torture, or other gross violations of human rights committed against individuals seeking—

(A) to expose illegal activity carried out by officials of the Government of the Russian Federation; or

(B) to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly and the rights to a fair trial and democratic elections.

(b) UPDATES.—The Secretary of State shall update the list required by subsection (a) as new information becomes available.

(c) NOTICE.—The Secretary of State shall—

(1) to the extent practicable, provide notice and an opportunity for a hearing to a person before the person is added to the list required by subsection (a); and

(2) remove a person from the list if the person demonstrates to the satisfaction of the Secretary that the person did not engage in the activity for which the person was added to the list.

(d) REQUESTS BY MEMBERS OF CONGRESS.—Not later than 30 days after receiving a written request from a Member of Congress with respect to whether a person meets the criteria for being added to the list required by subsection (a), the Secretary of State shall inform that Member of the determination of the Secretary with respect to whether or not that person meets those criteria.

SEC. 5. INADMISSIBILITY OF CERTAIN ALIENS.

(a) INELIGIBILITY FOR VISAS.—An alien is ineligible to receive a visa to enter the United States and ineligible to be admitted to the United States if the alien is on the list required by section 4(a).

(b) CURRENT VISAS REVOKED.—The Secretary of State shall revoke, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), the visa or other documentation of any alien who would be ineligible to receive such a visa or documentation under subsection (a).

(c) WAIVER FOR NATIONAL INTERESTS.—The Secretary of State may waive the application of subsection (a) or (b) in the case of an alien if the Secretary determines that such a waiver is in the national interests of the United States. Upon granting such a waiver, the Secretary shall provide to the appropriate congressional committees notice of, and a justification for, the waiver.

SEC. 6. FINANCIAL MEASURES.

(a) SPECIAL MEASURES.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury shall investigate money laundering relating to the conspiracy described in section 4(a)(1)(C). If the Secretary of the Treasury makes a determination under section 5318A of title 31, United States Code, with respect to such money laundering, the Secretary of the Treasury shall instruct domestic financial institutions and domestic financial agencies to take 1 or more special measures described in section 5318A(b) of such title.

(b) FREEZING OF ASSETS.—The Secretary of the Treasury shall freeze and prohibit all transactions in all property and interests in property of a person that are in the United States, that come within the United States, or that are or come within the possession or control of a United States person if the person—

(1) is on the list required by section 4(a); or

(2) acts as an agent of or on behalf of a person on that list in a matter relating to the activity for which the person was added to that list.

(c) WAIVER FOR NATIONAL INTERESTS.—The Secretary of the Treasury may waive the application of subsection (a) or (b) if the Secretary determines that such a waiver is in the national interests of the United States. Upon granting such a waiver, the Secretary shall provide to the appropriate congressional committees notice of, and a justification for, the waiver.

(d) ENFORCEMENT.—

(1) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out this section shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of such section.

(2) REQUIREMENTS FOR FINANCIAL INSTITUTIONS.—

(A) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations to require each financial institution that is a United States person—

(i) to perform an audit of the assets within the possession or control of the financial institution to determine whether any of such assets are required to be frozen pursuant to subsection (b); and

(ii) to submit to the Secretary—

(I) a report containing the results of the audit; and

(II) a certification that, to the best of the knowledge of the financial institution, the financial institution has frozen all assets within the possession or control of the financial institution that are required to be frozen pursuant to subsection (b).

(B) PENALTIES.—The penalties provided for in sections 5321(a) and 5322 of title 31, United States Code, shall apply to a financial institution that violates a regulation prescribed under subparagraph (A) in the same manner and to the same extent as such penalties would apply to any person that is otherwise subject to such section 5321(a) or 5322.

(e) REGULATORY AUTHORITY.—The Secretary of the Treasury shall issue such regulations, licenses, and orders as are necessary to carry out this section.

SEC. 7. REPORT TO CONGRESS.

Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report on—

(1) the actions taken to carry out this Act, including—

(A) the number of times and the circumstances in which persons described in section 4(a) have been added to the list required by that section during the year preceding the report; and

(B) if few or no such persons have been added to that list during that year, the reasons for not adding more such persons to the list; and

(2) efforts to encourage the governments of other countries to impose sanctions that are similar to the sanctions imposed under this Act.

By Mr. LIEBERMAN (for himself and Mr. MCCAIN):

S. 1040. A bill to enhance public safety by making more spectrum available to public safety entities, to facilitate the development of a public safety broadband network, to provide standards for the spectrum needs of public safety entities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LIEBERMAN. Mr. President, I rise today, with my colleague Senator MCCAIN, to introduce legislation to ensure that we take advantage of a once-in-a-lifetime opportunity to build a coast-to-coast communications network for our Nation's first responders that is secure, interoperable and resilient.

As it stands now, the mobile device the average teenager carries has more capability than those of the men and women who put their lives on the line for us each and every day and that is just wrong.

Today, we introduce the Broadband for First Responders Act of 2011, which will set aside the so-called D Block of spectrum for public safety entities and provide them the bandwidth they need to communicate effectively in an emergency. Companion legislation has been introduced in the House of Representatives by Representatives PETER T. KING and BENNIE G. THOMPSON, the Chairman and Ranking Member of the House Committee on Homeland Security.

I am proud to stand with the representatives of more than 40 organizations representing public safety officials, and with the ''Big 7'' associations representing State and local governments, to call on Congress to put the D Block in the hands of public safety. Those groups include the International Association of Chiefs of Police, the International Association of Fire Chiefs, the National Sheriffs Association, the Major Cities Chiefs Association, the Major County Sheriffs Association, the Metropolitan Fire Chiefs Association, the Association of Public-Safety Communications Officials—International, APCO International, the National Emergency Management Association, the National Association of State EMS Officials, the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the International City/County Management Association.

I am pleased that President Obama has pledged his commitment to reserve

the D Block for public safety. I also look forward to working with Senator ROCKEFELLER, the Chairman of the Committee on Commerce, Science, and Transportation, who has championed this cause and has signaled his determination to see a bill move through Congress this year.

Today, public safety communicates on slices of scattered spectrum that prevent interoperable communications among agencies and jurisdictions, and that do not allow the large data transmissions that we take for granted in today's commercial communications.

Securing the D Block for public safety will allow us to build a nationwide interoperable network for emergency communications that could prevent the kinds of communication meltdowns we had during 9–11 and Hurricane Katrina.

But setting aside the D Block will also allow first responders to send video, maps, and other large data transmissions over their mobile devices. For example, firefighters' lives may be saved because they will be able to access building specifications on their handhelds and know all the exits of a burning building before they enter it. A police officer at the scene of a crime would be able to feed video back to headquarters. Emergency response officials would be able to exchange data with hospitals while treating patients at the scene of an accident.

I do not think it is wise, as the Federal Communications Commission, FCC, proposed in its National Broadband Plan, to auction the D Block to commercial interests and then to hope that public safety will be able to piggy-back on it. In a crisis, first responders need secure, reliable and quick communications that are not disrupted by commercial traffic.

The Broadband for First Responders Act of 2011 would ensure that the D Block is licensed to the same public safety broadband licensee that currently holds the license for 10 MHz in the 700 MHz band. The bill would also provide up to $5.5 billion for a construction fund to assist with the costs of constructing the network and up to $5.5 billion for an operation and maintenance fund for long-term maintenance. These funds would come from revenues generated by the auction of different bands of spectrum to commercial carriers. By dedicating those auction revenues to the public safety network, we can help public safety officials build the system they need without adding to the deficit.

Under our bill, the FCC would set rules for the public safety network, ensuring interoperability across the nationwide system. The rules would also allow public safety to share spectrum with other governmental and private entities, as long as public safety services retain priority access to the spectrum. This authority would help hold down costs of the system by allowing public safety to leverage existing infrastructure.

The grants to build and maintain the public safety network would be administered by the Department of Homeland Security and would be awarded directly to States and municipalities, who are in the best position to know how to deploy the network in their jurisdictions.

Achieving nationwide interoperability through adequate spectrum is a major recommendation of the 9/11 Commission that is unfulfilled. We should not let the 10th anniversary of 9/11 pass without legislating to remedy that failure. The Chairman and Vice-Chairman of the Commission, the Honorable Thomas H. Kean and the Honorable Lee H. Hamilton, appeared before our Committee on Homeland Security and Governmental Affairs in March and urged the immediate allocation of the D Block to public safety, bluntly, and rightfully, delivering a message to Congress that further delay is intolerable. I urge my colleagues to take bold action to remedy Congress's past inaction by promptly passing the Broadband for First Responders Act of 2011.

Mr. MCCAIN. Mr, President, today I share the honor with Chairman LIEBERMAN of introducing the First Responders Protection Act of 2011. This bill would provide 10 MHz of spectrum in the 700 MHz spectrum band to the public safety broadband licensee, make available funding for the construction, operation and maintenance of a nationwide interoperable communications network, and ensure proper governance.

In 2004, the 9/11 Commission's Final Report recommended the ''expedited and increased assignment of radio spectrum to public safety entities.'' Shortly thereafter, Senator LIEBERMAN and I introduced a bill to provide spectrum to public safety; however the Senate voted down that bill. We reintroduced the bill in 2005, month before Hurricane Katrina hit the Gulf Coast. But our efforts were blocked. Fortunately, Congress finally wrestled some spectrum away from the television broadcasters in 2009 and provided it to public safety. However, public safety has additional spectrum needs.

Almost every other recommendation of the 9/11 Commission has been implemented, but this important recommendation remains unfulfilled. I can only imagine how many lives could have been saved on 9/11 if this spectrum had been available at that time. How many firefighters would be alive today if they could have communicated with their battalion chief at the base of the World Trade Center?

In 2007, I introduced legislation to auction the remaining public safety spectrum to a commercial carrier that would then build out a network for public safety. The FCC held such an auction, but no bidder met the reserve price. Ten megahertz of spectrum remains available for public safety's needs. The FCC had announced its intention to auction this spectrum to a commercial provider. Thankfully, the White House announced late last year that it now supports the spectrum being provided to first responders for the construction of a nationwide public safety network, as did the Chairman and Ranking Member of the Senate Commerce Committee.

Specifically, this legislation would license the remaining spectrum to the public safety broadband licensee that has been previously approved by the FCC as a qualified licensee and represents more than three dozen national public safety organizations. The legislation provides authority to local jurisdictions to make decisions on the spectrum use, network build-out and equipment. The men and women fighting crime and saving lives know what communications systems and technology are best for them. Not Washington.

Lastly, this bill provides funds for grants to localities for the construction, operation and maintenance of an interoperable communications network. These funds will come from the proceeds of a commercial spectrum auction, thereby not adding to our Nation's burgeoning debt or raising taxes on all Americans.

As we approach the 10 year commemoration of the horrific events on September 11th and the six year remembrance of the devastating tragedy of Hurricane Katrina, it is a disgrace that police officers, sheriffs and fire fighters still don't have a nation-wide interoperable communications system. Our legislation provides the spectrum and funding to first responders, while being fiscally responsible and ensuring local control and conscientious governance.

Providing ten megahertz of spectrum to public safety, as this bill does, is supported by the International Association of Chiefs of Police, the International Association of Fire Chiefs, the National Sheriffs Association, the Major Cities Chiefs Association, the Major County Sheriffs Association, the Metropolitan Fire Chiefs Association, the Association of Public-Safety Communications Officials, International, APCO, the National Emergency Managers Association, the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the International City/County Management Association.

We have slightly more than one hundred days until the ten year anniversary of the horrific events of 9/11. I hope over the next 100 days the Senate Majority Leader will consider bringing this bill to the floor for full consideration and that at that time my colleagues will join me and Senator LIEBERMAN in providing public safety with the interoperable communications network they deserve. It is the least we can do for those who put their lives in danger each and every day to protect all of us.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 191—DESIGNATING JUNE 2011 AS ''NATIONAL APHASIA AWARENESS MONTH'' AND SUPPORTING EFFORTS TO INCREASE AWARENESS OF APHASIA

Mr. JOHNSON of South Dakota submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 191

Whereas aphasia is a communication impairment caused by brain damage that typically results from a stroke;

Whereas aphasia can also occur with other neurological disorders, such as a brain tumor;

Whereas many people with aphasia also have weakness or paralysis in the right leg and right arm, usually due to damage to the left hemisphere of the brain, which controls language and movement on the right side of the body;

Whereas the effects of aphasia may include a loss of, or reduction in, the ability to speak, comprehend, read, and write, but the intelligence of a person with aphasia remains intact;

Whereas according to the National Institute of Neurological Disorders and Stroke (referred to in this preamble as the ''NINDS''), stroke is the third-leading cause of death in the United States, ranking behind heart disease and cancer;

Whereas stroke is a leading cause of serious, long-term disability in the United States;

Whereas the NINDS estimates that there are approximately 5,000,000 stroke survivors in the United States;

Whereas the NINDS estimates that people in the United States suffer approximately 750,000 strokes per year, with about ⅓ of the strokes resulting in aphasia;

Whereas according to the NINDS, aphasia affects at least 1,000,000 people in the United States;

Whereas the NINDS estimates that more than 200,000 people in the United States acquire aphasia each year;

Whereas the National Aphasia Association is a unique organization that strives to promote public education, research, rehabilitation, and support services for the general public, people with aphasia, and aphasia caregivers throughout the United States; and

Whereas as an advocacy organization for people with aphasia and their caregivers, the National Aphasia Association envisions a world that recognizes the ''silent'' disability of aphasia and provides opportunity and fulfillment for people affected by aphasia: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2011 as ''National Aphasia Awareness Month'';

(2) supports efforts to increase awareness of aphasia;

(3) recognizes that strokes, a primary cause of aphasia, are the third-largest cause of death and disability in the United States;

(4) acknowledges that aphasia deserves more attention and study to find new solutions for individuals experiencing aphasia and their caregivers;

(5) supports efforts to make the voices of people with aphasia heard, because people with aphasia are often unable to communicate with others; and

(6) encourages all people in the United States to observe National Aphasia Awareness Month with appropriate events and activities.

SENATE RESOLUTION 192—DESIGNATING MAY 21, 2011, AS ''NATIONAL KIDS TO PARKS DAY''

Mr. UDALL of Colorado (for himself, Mr. BURR, Mr. BINGAMAN, and Ms. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 192

Whereas the first National Kids to Parks Day will be celebrated on May 21, 2011;

Whereas the goal of National Kids to Parks Day is to empower young people and encourage families to get outdoors and visit the parks of the United States;

Whereas on National Kids to Parks Day, rural and urban Americans alike can be reintroduced to the splendid National, State, and neighborhood parks that are located in their communities;

Whereas communities across the United States offer a variety of natural resources and public land, often with free access, to individuals seeking outdoor recreation;

Whereas the United States should encourage young people to lead a more active lifestyle, as too many young people in the United States are overweight or obese;

Whereas National Kids to Parks Day is an opportunity for families to take a break from their busy lives and come together for a day of wholesome fun; and

Whereas National Kids to Parks Day aims to broaden the appreciation of young people for nature and the outdoors: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 21, 2011, as ''National Kids to Parks Day'';

(2) recognizes the importance of outdoor recreation and the preservation of open spaces to the health of the young people of the United States; and

(3) calls on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

SENATE RESOLUTION 193—HONORING THE BICENTENNIAL OF THE CITY OF ASTORIA

Mr. MERKLEY (for himself and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 193

Whereas Astoria is a scenic gem on the coast of Oregon, and the residents of Astoria have long represented the essence of what it means to be an Oregonian;

Whereas the site of Astoria, located at the mouth of the Columbia River where the Columbia River meets the Pacific Ocean, marks the endpoint of the epic Lewis and Clark expedition to explore the American West, and was founded by fur traders in 1811;

Whereas Thomas Jefferson recognized Astoria as the Nation's first significant claim to the West and noted that were it not for the settlement of Astoria, the United States may have ended at the Rocky Mountains;

Whereas Astoria evolved from being a fur trading hub to serving as the ad-hoc capital of Oregon Country, and later became a prominent leader in the fishing and timber industries and an important port city;

Whereas Astoria was incorporated in 1856, and today is a center for manufacturing, art, tourism, and fishing;

Whereas settlers from Scandinavia and China were among the first to come to Astoria, and the presence of their descendants has contributed to a town rich in both history and culture;

Whereas Astoria is a vibrant tourism destination that has chronicled its remarkable history with the establishment of superb museums and well-preserved historical sites;

Whereas citizens of Astoria and visitors from around the country and the world enjoy boating, fishing, and hiking in one of the most beautiful areas on the West Coast; and

Whereas the natural beauty of the region has been noted by many artists, filmmakers, and writers, serving as the backdrop for many stories, including the beloved film ''The Goonies'': Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Astoria's bicentennial should be observed and celebrated;

(2) the people of Astoria should be thanked for their many pioneering contributions to the State of Oregon and the United States; and

(3) an enrolled copy of this resolution should be transmitted to the State of Oregon for appropriate display.

SENATE CONCURRENT RESOLUTION 18—SETTING FORTH THE PRESIDENT'S BUDGET REQUEST FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2012, AND SETTING FORTH THE APPROPRIATE BUDGETARY LEVELS FOR FISCAL YEARS 2013 THROUGH 2021

Mr. SESSIONS submitted the following concurrent resolution; which was placed on the calendar:

S. CON. RES. 18

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2012.

(a) DECLARATION.—Congress declares that this resolution is the concurrent resolution on the budget for fiscal year 2012 and that this resolution sets forth the appropriate budgetary levels for fiscal years 2013 through 2021.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2012.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Social Security.
Sec. 103. Postal Service discretionary administrative expenses.
Sec. 104. Major functional categories.

TITLE II—BUDGET PROCESS

Subtitle A—Budget Enforcement

Sec. 201. Program integrity initiatives and other adjustments.
Sec. 202. Point of order against advance appropriations.
Sec. 203. Emergency legislation.
Sec. 204. Adjustments for the extension of certain current policies.

Subtitle B—Other Provisions

Sec. 211. Budgetary treatment of certain discretionary administrative expenses.
Sec. 212. Application and effect of changes in allocations and aggregates.
Sec. 213. Adjustments to reflect changes in concepts and definitions.
Sec. 214. Exercise of rulemaking powers.