

WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

## S. RES. 397

Whereas Mac Mathias served in the United States Navy during World War II from 1942–1946 and was a captain in the Naval Reserve;

Whereas Mac Mathias served the state of Maryland as an assistant attorney general, a city attorney, a member of the Maryland House of Delegates, and as a member of the United States House of Representatives;

Whereas Mac Mathias was called the “conscience of the Senate” by Majority Leader Mike Mansfield;

Whereas Mac Mathias served the Senate as Chairman of the Committee on Rules and Administration in the Ninety-seventh through Ninety-ninth Congresses and co-chairman of the Joint Committee on Printing in the Ninety-seventh and Ninety-ninth Congresses; and

Whereas Mac Mathias served the people of Maryland with distinction for 18 years in the United States Senate; Now therefore be it

*Resolved*, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Charles McC. Mathias, Jr., former member of the United States Senate.

*Resolved*, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

*Resolved*, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Charles McC. Mathias, Jr.

# SENATE RESOLUTION 398—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF SCHONBERG, ET AL. V. SANDERS, ET AL.

Mr. REID submitted the following resolution; which was considered and agreed to:

## S. RES. 398

Whereas, in the case of *Schonberg, et al. v. Sanders, et al.*, Case No. 5:09–CV–534, pending in the United States District Court for the Middle District of Florida, plaintiffs have named as defendants five Senators; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 1A288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent Senators Lieberman, Lincoln, McConnell, McCain, and Sanders in the case of *Schonberg, et al. v. Sanders, et al.*

# SENATE RESOLUTION 399—HONORING THE HEROIC ACTIONS OF COURT SECURITY OFFICER STANLEY COOPER, DEPUTY UNITED STATES MARSHAL RICHARD J. “JOE” GARDNER, THE LAW ENFORCEMENT OFFICERS OF THE UNITED STATES MARSHALS SERVICE AND LAS VEGAS METROPOLITAN POLICE DEPARTMENT, AND THE COURT SECURITY OFFICERS IN RESPONDING TO THE ARMED ASSAULT AT THE LLOYD D. GEORGE FEDERAL COURTHOUSE ON JANUARY 4, 2010

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

## S. RES. 399

Whereas on January 4, 2010, during an assault at the entrance of the Lloyd D. George Federal Courthouse in Las Vegas, Nevada, Court Security Officer Stanley Cooper was fatally wounded and died heroically in the line of duty while protecting the employees, occupants, and visitors of the courthouse;

Whereas Deputy United States Marshal Richard J. “Joe” Gardner was wounded in the line of duty while protecting the employees, occupants, and visitors of the courthouse;

Whereas the Court Security Officers and members of the United States Marshals Service and the Las Vegas Metropolitan Police Department acted swiftly and bravely to subdue the gunman and minimize risk and injury to the public; and

Whereas the heroic actions of Court Security Officer Stanley Cooper, Deputy United States Marshal Richard J. “Joe” Gardner, and the law enforcement officers who responded to the attack prevented additional harm to innocent bystanders: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the brave actions and quick thinking exhibited by Court Security Officer Stanley Cooper during the assault at the entrance of the Lloyd D. George Federal Courthouse on January 4, 2010;

(2) offers its deepest condolences to the family and friends of Court Security Officer Stanley Cooper, who valiantly gave his life in the line of duty;

(3) commends Deputy United States Marshal Richard J. “Joe” Gardner for his actions and bravery in responding to the assault;

(4) wishes Deputy United States Marshal Richard J. “Joe” Gardner a speedy recovery from the wounds he sustained in the line of duty; and

(5) applauds the Court Security Officers and members of the United States Marshals Service and Las Vegas Metropolitan Police Department for their brave and courageous actions in responding to the assault at the Lloyd D. George Federal Courthouse.

# SENATE CONCURRENT RESOLUTION 49—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO HONOR THE LIFE OF ELIJAH PARISH LOVEJOY

Mr. BURRIS (for himself and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

## S. CON. RES. 49

Whereas Elijah Parish Lovejoy was an advocate for the abolition of slavery and, as editor of the *St. Louis Observer*, wrote a series of editorials in which he strongly condemned the practice of slavery and supported efforts toward emancipation;

Whereas after being forced to move his printing press across the Mississippi River to Alton, Illinois, Lovejoy became the Stated Clerk of the Presbytery in 1837 and the first pastor of the present-day College Avenue Presbyterian Church;

Whereas on the night of November 7, 1837, Lovejoy was killed by a pro-slavery mob while he attempted to defend his press, a machine that came to serve as a symbol for the abolition of slavery;

Whereas the murder of Lovejoy resulted in a great strengthening of abolitionist sentiment and is recognized as one of the key events that led to the Civil War;

Whereas Lovejoy gave his life in defense of freedom and equality, two traits that define America;

Whereas the Elijah P. Lovejoy Memorial asks that a postage stamp be issued to honor the life of Elijah Parish Lovejoy and to commemorate the 175th anniversary of his death: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of Congress that—

(1) the United States Postal Service should issue a postage stamp honoring the life of Elijah Parish Lovejoy and commemorating the 175th anniversary of his death; and

(2) the Citizens’ Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 3308. Mr. SESSIONS (for himself, Mrs. MCCASKILL, Mr. KYL, and Mr. GREGG) proposed an amendment to amendment SA 3299 proposed by Mr. BAUCUS (for Mr. REID) to the joint resolution H.J. Res. 45, increasing the statutory limit on the public debt.

SA 3309. Mr. BROWNBACK (for himself, Mr. CHAMBLISS, Mr. ENSIGN, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3299 proposed by Mr. BAUCUS (for Mr. REID) to the joint resolution H.J. Res. 45, supra.

## TEXT OF AMENDMENTS

**SA 3308.** Mr. SESSIONS (for himself, Mrs. MCCASKILL, Mr. KYL, and Mr. GREGG) proposed an amendment to amendment SA 3299 proposed by Mr. BAUCUS (for Mr. REID) to the joint resolution H.J. Res. 45, increasing the statutory limit on the public debt; as follows:

At the appropriate place, insert the following:

### SEC. 401. DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

#### “DISCRETIONARY SPENDING LIMITS

“SEC. 316. (a) DISCRETIONARY SPENDING LIMITS.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the discretionary spending limits as set forth in this section to be exceeded.

“(b) LIMITS.—In this section, the term ‘discretionary spending limits’ has the following meaning subject to adjustments in subsection (c):

“(1) For fiscal year 2010—

“(A) for the defense category (budget function 050), \$556,128,000,000 in budget authority; and

“(B) for the nondefense category, \$526,122,000,000 in budget authority.

“(2) For fiscal year 2011—

“(A) for the defense category (budget function 050), \$564,293,000,000 in budget authority; and

“(B) for the nondefense category, \$529,662,000,000 in budget authority.

“(3) For fiscal year 2012—

“(A) for the defense category (budget function 050), \$573,612,000,000 in budget authority; and

“(B) for the nondefense category, \$533,232,000,000 in budget authority.

“(4) For fiscal year 2013—

“(A) for the defense category (budget function 050), \$584,421,000,000 in budget authority; and

“(B) for the nondefense category, \$540,834,000,000 in budget authority.

“(5) For fiscal year 2014—

“(A) for the defense category (budget function 050), \$598,249,000,000 in budget authority; and

“(B) for the nondefense category, \$550,509,000,000 in budget authority.

“(6) With respect to fiscal years following 2014, the President shall recommend and the Congress shall consider legislation setting limits for those fiscal years.

“(c) ADJUSTMENTS.—

“(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

“(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, the budgetary aggregates in the concurrent resolution on the budget most recently adopted by the Senate and the House of Representatives, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing there from; and

“(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

“(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

“(A) OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—If a bill or joint resolution is reported making appropriations for fiscal year 2010, 2011, 2012, 2013, or 2014, that provides funding for overseas deployments and other activities, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that purpose but not to exceed—

“(i) with respect to fiscal year 2010, \$130,000,000,000 in new budget authority;

“(ii) with respect to fiscal year 2011, \$50,000,000,000 in new budget authority;

“(iii) with respect to fiscal year 2012, \$50,000,000,000 in new budget authority;

“(iv) with respect to fiscal year 2013, \$50,000,000,000 in new budget authority; and

“(v) with respect to fiscal year 2014, \$50,000,000,000 in new budget authority.

“(B) EMERGENCY SPENDING.—For fiscal year 2010, 2011, 2012, 2013, or 2014 for appropriations for discretionary accounts designated as emergency requirements, the adjustment for purposes of paragraph (1) shall be the total of such appropriations in discretionary

accounts designated as emergency requirements, but not to exceed \$10,350,000,000 for fiscal year 2010, \$10,454,000,000 for 2011, \$10,558,000,000 for 2012, \$10,664,000,000 for 2013, and \$10,877,000,000 for 2014. Appropriations designated as emergencies in excess of these limitations shall be treated as new budget authority.

“(C) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2010, 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii)(I), plus an additional amount for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

“(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

“(I) For fiscal year 2010, \$7,100,000,000, for fiscal year 2011, \$7,171,000,000, for fiscal year 2012, \$7,243,000,000, for fiscal year 2013, \$7,315,000,000, and for fiscal year 2014, \$7,461,000,000.

“(II) For fiscal year 2010, \$890,000,000, for fiscal year 2011, \$899,000,000, for fiscal year 2012, \$908,000,000, for fiscal year 2013, \$917,000,000, and for fiscal year 2014, \$935,000,000.

“(D) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2010, 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii)(I), plus an additional amount for Continuing Disability Reviews and Supplemental Security Income Redeterminations for the Social Security Administration described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

“(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

“(I) For fiscal year 2010, \$273,000,000; for fiscal year 2011, \$276,000,000; for fiscal year 2012, \$278,000,000; for fiscal year 2013, \$281,000,000; for fiscal year 2014, \$287,000,000.

“(II) For fiscal year 2010, \$485,000,000; for fiscal year 2011, \$490,000,000; for fiscal year 2012, \$495,000,000; for fiscal year 2013, \$500,000,000; for fiscal year 2014, \$510,000,000.

“(iii) ASSET VERIFICATION.—

“(i) IN GENERAL.—The additional appropriation permitted under clause (ii)(II) may also provide that a portion of that amount, not to exceed the amount specified in subclause (II) for that fiscal year instead may be used for asset verification for Supplemental Security Income recipients, but only if, and to the extent that the Office of the Chief Actuary estimates that the initiative would be at least as cost effective as the redeterminations of eligibility described in this subparagraph.

“(ii) AMOUNTS.—For fiscal year 2010, \$34,000,000, for fiscal year 2011, \$34,340,000, for fiscal year 2012, \$34,683,000, for fiscal year 2013, \$35,030,000 and for fiscal year 2014, \$35,731,000.

“(E) HEALTH CARE FRAUD AND ABUSE.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2010, 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii) for the Health Care Fraud and Abuse Control program at the Department of Health & Human Services for that fiscal year, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that

measure for that initiative but not to exceed the amount described in clause (ii).

“(ii) AMOUNT.—The amount referred to in clause (i) is for fiscal year 2010, \$311,000,000, for fiscal year 2011, \$314,000,000, for fiscal year 2012, \$317,000,000, for fiscal year 2013, \$320,000,000, and for fiscal year 2014, \$327,000,000.

“(F) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2010, 2011, 2012, 2013, or 2014 that includes \$10,000,000, plus an additional amount for in-person reemployment and eligibility assessments and unemployment improper payment reviews for the Department of Labor, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed—

“(i) with respect to fiscal year 2010, \$50,000,000 in new budget authority;

“(ii) with respect to fiscal year 2011, \$51,000,000 in new budget authority; and

“(iii) with respect to fiscal year 2012, \$51,000,000 in new budget authority.

“(iv) with respect to fiscal year 2013, \$52,000,000 in new budget authority; and

“(v) with respect to fiscal year 2014, \$53,000,000 in new budget authority.

“(G) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2010, 2011, 2012, 2013, or 2014 that includes \$3,200,000,000 in funding for the Low-Income Home Energy Assistance Program and provides an additional amount up to \$1,900,000,000 for that program, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed \$1,900,000,000.

“(d) EMERGENCY SPENDING.—

“(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

“(2) EXEMPTION OF EMERGENCY PROVISIONS.—Subject to the limitations provided in subsection (c)(2)(B), any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), and section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits).

“(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

“(4) DEFINITIONS.—In this subsection, the terms ‘direct spending’, ‘receipts’, and ‘appropriations for discretionary accounts’ mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(5) POINT OF ORDER.—

“(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

“(B) SUPERMAJORITY WAIVER AND APPEALS.—

“(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

“(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

“(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this paragraph.

“(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

“(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this paragraph, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

“(6) CRITERIA.—

“(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

“(i) necessary, essential, or vital (not merely useful or beneficial);

“(ii) sudden, quickly coming into being, and not building up over time;

“(iii) an urgent, pressing, and compelling need requiring immediate action;

“(iv) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

“(v) not permanent, temporary in nature.

“(7) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

“(e) LIMITATIONS ON CHANGES TO EXEMPTIONS.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

“(f) POINT OF ORDER IN THE SENATE.—

“(1) WAIVER.—The provisions of this section shall be waived or suspended in the Senate only—

“(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

“(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

“(2) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the measure. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

“(3) LIMITATIONS ON CHANGES TO THIS SUBSECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change this subsection.”.

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 315 the following new item:

“Sec. 316. Discretionary spending limits.”.

**SA 3309.** Mr. BROWNBACK (for himself, Mr. CHAMBLISS, Mr. ENSIGN, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3299 proposed by Mr. BAUCUS (for Mr. REID) to the joint resolution H.J. Res. 45, increasing the statutory limit on the public debt; as follows:

At the end, add the following:

## **TITLE II—COMMISSION ON CONGRESSIONAL BUDGETARY ACCOUNTABILITY AND REVIEW OF FEDERAL AGENCIES**

### **SEC. 201. DEFINITIONS.**

In this title:

(1) AGENCY.—The term “agency” means—

(A) an Executive agency, as defined under section 105 of title 5, United States Code; and

(B) the Executive Office of the President.

(2) CALENDAR DAY.—The term “calendar day” means a calendar day other than one on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(3) COMMISSION BILL.—The term “Commission bill” means only a bill which is introduced as provided under section 206, and contains the proposed legislation included in the report submitted to Congress under section 203(b)(1), without modification.

(4) PROGRAM.—The term “program” means any activity or function of an agency.

### **SEC. 202. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established the Commission on Congressional Budgetary Accountability and Review of Federal Agencies (referred to in this title as the “Commission”).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall consist of 8 members, of which, not later than 30 days after the date of enactment of this title—

(A) 2 shall be appointed by the majority leader of the Senate;

(B) 2 shall be appointed by the minority leader of the Senate;

(C) 2 shall be appointed by the Speaker of the House of Representatives; and

(D) 2 shall be appointed by the minority leader of the House of Representatives.

(2) COCHAIRPERSONS.—The majority leader of the Senate and the Speaker of the House of Representatives shall each designate a Cochairperson from among the members of the Commission.

(c) DATE.—Members of the Commission shall be appointed by not later than 30 days after the date of enactment of this title.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(2) SUBSEQUENT MEETINGS.—The Commission shall meet at the call of the Cochairpersons or a majority of its members.

(f) QUORUM.—Five members of the Commission shall constitute a quorum for purposes of voting, but a quorum is not required for members to meet and hold hearings.

### **SEC. 203. DUTIES OF THE COMMISSION.**

(a) SYSTEMATIC ASSESSMENT OF PROGRAMS BY THE COMMISSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Commission shall establish a systematic method for assessing the effectiveness and accountability of agency programs in accordance with paragraph (2) and divide the programs into 4 approximately equal budgetary parts based on the size of the budget and number of personnel of the agency program.

(2) METHOD OBJECTIVES.—The method established under paragraph (1) shall—

(A) recognize different types of Federal programs;

(B) assess programs based on the achievement of performance goals (as defined under section 1115(g)(4) of title 31, United States Code);

(C) assess programs based in part on the adequacy of the program's performance measures, financial management, and other factors;

(D) assess programs based in part on whether the program has fulfilled the legislative intent surrounding the creation of the program, taking into account any change in legislative intent during the program's existence; and

(E) assess programs based in part on collaborative analysis, with the program or agency, of program policy and goals which may not fit into easily measurable performance goals.

(b) EVALUATION, PLAN, AND LEGISLATION.—

(1) IN GENERAL.—The Commission shall—

(A) evaluate all agencies and programs within those agencies in each unit identified in the systemic assessment under subsection (a) (1 each year over the next 4 years), using the criteria under paragraph (4); and

(B) submit to Congress each of the next 4 years beginning January 1, 2011, with respect to each evaluation under subparagraph (A)—

(i) a plan with recommendations of the agencies and programs that should be realigned or eliminated within each part; and

(ii) proposed legislation to implement the plan described under clause (i).

(2) APPROVAL OF PLAN.—Any plan submitted under paragraph (1) shall be approved by an affirmative vote of at least 6 members of the Commission.

(3) RELOCATION OF FEDERAL EMPLOYEES.—The proposed legislation under paragraph (1) shall provide that if the position of an employee of an agency is eliminated as a result of the implementation of the plan under paragraph (1)(A), the affected agency shall make reasonable efforts to relocate such employee to another position within the agency or within another Federal agency.

(4) CRITERIA.—

(A) DUPLICATIVE.—If 2 or more agencies or programs are performing the same essential function and the function can be consolidated or streamlined into a single agency or

program, the Commission shall recommend that the agencies or programs be realigned.

(B) WASTEFUL OR INEFFICIENT.—The Commission may recommend the realignment or elimination of any agency or program that has wasted Federal funds by—

- (i) egregious spending;
- (ii) mismanagement of resources and personnel; or
- (iii) use of such funds for personal benefit or the benefit of a special interest group.

(C) OUTDATED, IRRELEVANT, OR FAILED.—The Commission shall recommend the elimination of any agency or program that—

- (i) has completed its intended purpose;
- (ii) has become irrelevant; or
- (iii) has failed to meet its objectives.

#### SEC. 204. POWERS OF THE COMMISSION.

(a) HEARINGS.—Subject to subsection (d), the Cochairpersons of the Commission may, for the purpose of carrying out this title—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Chairperson of the Commission considers advisable;

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses as the Chairperson of the Commission considers advisable; and

(3) require, by subpoena or otherwise, the production of such books, records, correspondence, memoranda, papers, documents, tapes, and other evidentiary materials relating to any matter under investigation by the Commission.

(b) SUBPOENAS.—

(1) ISSUANCE.—

(A) IN GENERAL.—A subpoena may be issued under this section only by the affirmative vote of 5 members of the Commission.

(B) SIGNATURES.—Subpoenas issued under this section may be—

- (i) issued under the signatures of any 2 members of the Commission who are not members of the same political party; and
- (ii) served by any person designated by the Cochairpersons or by a member designated by a majority of the Commission.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under this section, the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(c) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(d) INFORMATION.—

(1) IN GENERAL.—The Commission shall have reasonable access to budgetary, performance or programmatic materials, resources, statistical data, and other information the Commission determines to be necessary to carry out its duties from the Congressional Budget Office, and other agencies and representatives of the executive and legislative branches of the Federal Government. Members of the Commission shall make requests for such access in writing when necessary.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION OF INFORMATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(3) LIMITATION OF ACCESS TO PERSONAL TAX INFORMATION.—Information requested, sub-

poenaed, or otherwise accessed under this title shall not include tax data from the United States Internal Revenue Service, the release of which would otherwise be in violation of law.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

#### SEC. 205. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL MEMBERS.—Except as provided under subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall not be compensated.

(2) FEDERAL OFFICERS OR EMPLOYEES.—All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—With the approval of the majority of the Commission, the Cochairpersons of the Commission may, appoint an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION.—Upon the approval of the Cochairpersons, the executive director may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the maximum rate payable for a position at GS-15 of the General Schedule under section 5332 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—With the approval of the majority of the Commission, the Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

#### SEC. 206. EXPEDITED CONSIDERATION OF REFORM PROPOSALS.

(a) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(1) INTRODUCTION.—The Commission bill language provisions submitted pursuant to section 203(b)(1) shall be introduced in the Senate by the majority leader, or the major-

ity leader's designee, and in the House of Representatives, by the Speaker, or the Speaker's designee. Upon such introduction, the Commission bill shall be referred to the appropriate committees of Congress under paragraph (2). If the Commission bill is not introduced in accordance with the preceding sentence, then any member of Congress may introduce the Commission bill in their respective House of Congress beginning on the date that is the 5th calendar day that such House is in session following the date of the submission of such aggregate legislative language provisions.

(2) COMMITTEE CONSIDERATION.—

(A) REFERRAL.—A Commission bill introduced under paragraph (1) shall be referred to any appropriate committee of jurisdiction in the Senate, any appropriate committee of jurisdiction in the House of Representatives, the Committee on the Budget of the Senate and the Committee on the Budget of the House of Representatives. A committee to which a Commission bill is referred under this paragraph may review and comment on such bill, may report such bill to the respective House, and may not amend such bill.

(B) REPORTING.—Not later than 30 calendar days after the introduction of the Commission bill, each Committee of Congress to which the Commission bill was referred shall report the bill.

(C) DISCHARGE OF COMMITTEE.—If a committee to which is referred a Commission bill has not reported such Commission bill at the end of 30 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a Commission bill, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such Commission bill, and such Commission bill shall be placed on the appropriate calendar of the House involved.

(b) EXPEDITED PROCEDURE.—

(1) CONSIDERATION.—

(A) IN GENERAL.—Not later than 5 calendar days after the date on which a committee has reported a Commission bill or been discharged from consideration of a Commission bill, the majority leader of the Senate, or the majority leader's designee, or the Speaker of the House of Representatives, or the Speaker's designee, shall move to proceed to the consideration of the Commission bill. It shall also be in order for any member of the Senate or the House of Representatives, respectively, to move to proceed to the consideration of the Commission bill at any time after the conclusion of such 5-day period.

(B) MOTION TO PROCEED.—A motion to proceed to the consideration of a Commission bill is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment or to a motion to postpone consideration of the Commission bill. If the motion to proceed is agreed to, the Senate or the House of Representatives, as the case may be, shall immediately proceed to consideration of the Commission bill without intervening motion, order, or other business, and the Commission bill shall remain the unfinished business of the Senate or the House of Representatives, as the case may be, until disposed of.

(C) LIMITED DEBATE.—Debate on the Commission bill and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the Commission bill. A motion further to limit debate on the Commission bill is in order and is not debatable. All time used for consideration of the Commission bill, including time used for

quorum calls (except quorum calls immediately preceding a vote) and voting, shall come from the 10 hours of debate.

(D) AMENDMENTS.—No amendment to the Commission bill shall be in order in the Senate and the House of Representatives.

(E) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the Commission bill, the vote on final passage of the Commission bill shall occur.

(F) OTHER MOTIONS NOT IN ORDER.—A motion to postpone consideration of the Commission bill, a motion to proceed to the consideration of other business, or a motion to recommit the Commission bill is not in order. A motion to reconsider the vote by which the Commission bill is agreed to or not agreed to is not in order.

(2) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the Commission bill that was introduced in such House, such House receives from the other House a Commission bill as passed by such other House—

(A) the Commission bill of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under subparagraph (C);

(B) the procedure in the House in receipt of the Commission bill of the other House, shall be the same as if no Commission bill had been received from the other House; and

(C) notwithstanding subparagraph (B), the vote on final passage shall be on the Commission bill of the other House.

(3) Upon disposition of a Commission bill that is received by one House from the other House, it shall no longer be in order to consider the Commission bill that was introduced in the receiving House.

(C) RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.—This section is enacted—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a Commission bill, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

#### SEC. 207. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits the final evaluation and plan report under section 203.

#### SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for carrying out this title for each of the fiscal years 2010 through 2014.

#### NOTICE OF HEARING

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting scheduled before the Committee on Energy and Natural Resources, previously announced for February 11th, has been rescheduled and will now be held on Wednesday, February 10, 2010, at 9:30 a.m., immediately preceding the full committee hearing, in room SD-366 of the Dirksen Senate Office Building.

The purpose of the business meeting is to consider pending nominations.

For further information, please contact Sam Fowler or Amanda Kelly.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on January 26, 2010 at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on January 26, 2010 at 10 a.m. to conduct a hearing entitled "Intelligence Reform: The Lessons and Implications of the Christmas Day Attack, Part II."

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on January 26, 2010 at 2:30 p.m.

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

#### PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff of mine be granted the privileges of the floor during consideration of the debt limit legislation: Christopher Goble, Dustin Stevens, Lucas Hamilton, Tsveta Polhemus.

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that Paula Haurilesko, a detailee to the Committee on Homeland Security and Governmental Affairs, be granted the privilege of the floor for the remainder of the week.

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

#### IN MEMORY OF FORMER SENATOR CHARLES MCCURDY ("MAC") MATHIAS, JR.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 397 submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 397) relative to the death of Charles McCurdy ("Mac") Mathias, Jr., former United States Senator for the State of Maryland.

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

Mr. DURBIN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 397) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

##### S. RES. 397

Whereas Mac Mathias served in the United States Navy during World War II from 1942–1946 and was a captain in the Naval Reserve;

Whereas Mac Mathias served the state of Maryland as an assistant attorney general, a city attorney, a member of the Maryland House of Delegates, and as a member of the United States House of Representatives;

Whereas Mac Mathias was called the "conscience of the Senate" by Majority Leader Mike Mansfield;

Whereas Mac Mathias served the Senate as Chairman of the Committee on Rules and Administration in the Ninety-seventh through Ninety-ninth Congresses and co-chairman of the Joint Committee on Printing in the Ninety-seventh and Ninety-ninth Congresses; and

Whereas Mac Mathias served the people of Maryland with distinction for 18 years in the United States Senate; Now therefore be it

*Resolved*, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Charles McC. Mathias, Jr., former member of the United States Senate.

*Resolved*, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

*Resolved*, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Charles McC. Mathias, Jr.

#### AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 398 submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 398) to authorize representation by the Senate Legal Counsel in the case of *Schonberg, et al. v. Sanders, et al.*

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

Mr. REID. Mr. President, this resolution concerns a civil action filed by two individuals against five Senators, two Representatives, and the Federal Election Commission. Plaintiffs' challenge rests on their claim to a right that Congress pass health care legislation that would benefit them. Plaintiffs' legal claim is that the Federal Election Campaign Act's designation of Members of Congress as agents of their