bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 4704. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4705. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4706. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4707. Mr. NELSON of Nebraska (for himself, Mr. WICKER, Mr. CASEY, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4691. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. CRIMINAL PENALTIES.

Section 303(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(a)) is amended—

(1) in paragraph (1), by striking ''Any'' and inserting ''Except as provided in paragraph (2) or (3), any'';

(2) in paragraph (2), by striking ''Notwithstanding the provisions of paragraph (1) of this section, if'' and inserting ''If''; and

(3) by adding at the end the following:

''(3) Any person who knowingly violates subsection (a), (b), (c), (k), or (v) of section 301 with respect to any food and with conscious or reckless disregard of a risk of death or serious bodily injury shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.''.

SA 4692. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 407. AMENDMENT TO TITLE 28.

(a) IN GENERAL.—Chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

''§ 678. Televising Supreme Court proceedings

''The Supreme Court shall permit television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

''678. Televising Supreme Court proceedings.''.

SA 4693. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 407. DESIGNER ANABOLIC STEROID CONTROL.

(a) AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.—

(1) DEFINITIONS.—Section 102(41) of the Controlled Substances Act (21 U.S.C. 802(41)) is amended—

(A) in subparagraph (A)—

(i) in clause (xlix), by striking ''and'' at the end;

(ii) by redesignating clause (xlx) as clause (lxxx); and

(iii) by inserting after clause (xlix) the following:

''(l) 5α-Androstan-3,6,17-trione;

''(li) Androst-4-ene-3,6,17-trione;

''(lii) Androsta-1,4,6-triene-3,17-dione;

''(liii) 6-bromo-androstan-3,17-dione;

''(liv) 6-bromo-androsta-1,4-diene-3,17-dione;

''(lv) 4-chloro-17α-methyl-androsta-1,4-diene-3,17β-diol;

''(lvi) 4-chloro-17α-methyl-androst-4-ene-3β,17β-diol;

''(lvii) 4-chloro-17α-methyl-17β-hydroxy-androst-4-en-3-one;

''(lviii) 4-chloro-17α-methyl-17β-hydroxy-androst-4-ene-3,11-dione;

''(lix) 4-chloro-17α-methyl-androsta-1,4-diene-3,17β-diol;

''(lx) 2α,17α-dimethyl-17β-hydroxy-5α-androstan-3-one;

''(lxi) 2α,17α-dimethyl-17β-hydroxy-5β-androstan-3-one;

''(lxii) 2α,3α-epithio-17α-methyl-5α-androstan-17β-ol;

''(lxiii) [3,2-c]-furazan-5α-androstan-17β-ol;

''(lxiv) 3β-hydroxy-androst-1-en-17-one;

''(lxv) 3β-hydroxy-androst-4-en-17-one;

''(lxvi) 3β-hydroxy-estr-4-en-17-one;

''(lxvii) 3β-hydroxy-estra-4,9,11-trien-17-one;

''(lxviii) 17α-methyl-androst-2-ene-3,17β-diol;

''(lxix) 17α-methyl-androsta-1,4-diene-3,17β-diol;

''(lxx) Estra-4,9,11-triene-3,17-dione;

''(lxxi) 18a-Homo-3-hydroxy-estra-2,5(10)-dien-17-one;

''(lxxii) 6α-Methyl-androst-4-ene-3,17-dione;

''(lxxiii) 17α-Methyl-androstan-3-hydroxyimine-17β-ol;

''(lxxiv) 17α-Methyl-5α-androstan-17β-ol;

''(lxxv) 17β-Hydroxy-androstano[2,3-d]isoxazole;

''(lxxvi) 17β-Hydroxy-androstano[3,2-c]isoxazole

''(lxxvii) 4-Hydroxy-androst-4-ene-3,17-dione[3,2-c]pyrazole-5α-androstan-17β-ol;

''(lxxviii) [3,2-c]pyrazole-androst-4-en-17β-ol;

''(lxxix) [3,2-c]pyrazole-5α-androstan-17β-ol; and''; and

(B) by inserting at the end the following:

''(C) A drug or hormonal substance (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone) that is not listed in subparagraph (A), and is derived from, or has a chemical structure substantially similar to, 1 or more anabolic steroids listed in subparagraph (A), shall, subject to the limitations of section 201(i)(6) (21 U.S.C. 811(i)(6)), be considered to be an anabolic steroid for purposes of this Act if—

''(i) the drug or substance has been created or manufactured with the intent of producing a drug or other substance that either—

''(I) promotes muscle growth; or

''(II) otherwise causes a pharmacological effect similar to that of testosterone; or

''(ii) the drug or substance has been, or is intended to be, marketed or otherwise promoted in any manner suggesting that consuming it will promote muscle growth or any other pharmacological effect similar to that of testosterone.''.

(2) CLASSIFICATION AUTHORITY.—Section 201 of the Controlled Substances Act (21 U.S.C. 811) is amended by adding at the end the following:

''(i) TEMPORARY AND PERMANENT SCHEDULING OF RECENTLY EMERGED ANABOLIC STEROIDS.—

''(1) The Attorney General may issue a temporary order adding a drug or other substance to the list of anabolic steroids if the Attorney General finds that—

''(A) the drug or other substance satisfies the criteria for being considered an anabolic steroid under section 102(41) but is not listed in that section or by regulation of the Attorney General as being an anabolic steroid; and

''(B) adding such drug or other substance to the list of anabolic steroids will assist in preventing the unlawful importation, manufacture, distribution, or dispensing of such drug or other substance.

''(2) An order issued under paragraph (1) shall not take effect until 30 days after the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued. The order shall expire not later than 24 months after the date it becomes effective, except that the Attorney General may, during the pendency of proceedings under paragraph (5), extend the temporary scheduling order for up to 6 months.

''(3) A temporary scheduling order issued under paragraph (1) shall be vacated upon the issuance of a permanent scheduling order under paragraph (5).

''(4) An order issued under paragraph (1) is not subject to judicial review.

''(5) The Attorney General may, by rule, issue a permanent order adding a drug or other substance to the list of anabolic steroids if such drug or other substance satisfies the criteria for being considered an anabolic steroid under section 102(41). Such rulemaking may be commenced simultaneously with the issuance of the temporary order issued under paragraph (1).

''(6) If a drug or other substance has not been temporarily or permanently added to the list of anabolic steroids pursuant to this subsection, the drug or other substance shall be considered an anabolic steroid if in any criminal, civil, or administrative proceeding arising under this Act it has been determined in such proceeding, based on evidence presented in the proceeding, that the substance satisfies the criteria for being considered an anabolic steroid under paragraph (41)(A), (41)(C)(i), or (41)(C)(ii) of section 102.''.

(3) LABELING REQUIREMENTS.—The Controlled Substances Act is amended by inserting after section 305 (21 U.S.C. 825) the following:

''SEC. 305A. OFFENSES INVOLVING FALSE LABELING OF ANABOLIC STEROIDS.

''(a) UNLAWFUL ACTS.—

''(1) It shall be unlawful—

''(A) to import into the United States or to export from the United States,

''(B) to manufacture, distribute, dispense, sell, or offer to sell; or

''(C) to possess with intent to manufacture, distribute, dispense, sell, or offer to sell;

any anabolic steroid, or any product containing an anabolic steroid, unless it bears a label clearly identifying any anabolic steroid contained in such steroid or product by the nomenclature used by the International Union of Pure and Applied Chemistry (IUPAC).

''(2) A product that is the subject of an approved application as described in section 505(b), (i) or (j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b), (i), or (j)) is exempt from the International Union of Pure and Applied Chemistry nomenclature requirement of this subsection if such product is labeled in the manner required by the Federal Food, Drug, and Cosmetic Act.

''(b) CRIMINAL PENALTIES.—

''(1) Any person who violates subsection (a) shall be sentenced to a term of imprisonment of not more than 1 year, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual, or both.

''(2) Any person who violates subsection (a) knowing, intending, or having reasonable cause to believe, that the substance or product is an anabolic steroid, or contains an anabolic steroid, shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,500,000 if the defendant is other than an individual, or both.

''(c) CIVIL PENALTIES.—

''(1) Any person who violates subsection (a) shall be subject to a civil penalty as follows:

''(A) In the case of an importer, exporter, manufacturer, or distributor (other than as provided in subparagraph (B)), up to $500,000 per violation. For purposes of this subparagraph, a violation is defined as each instance of importation, exportation, manufacturing, or distribution, and each anabolic steroid or product imported, exported, manufactured, or distributed.

''(B) In the case of a sale or offer to sell at retail, up to $25,000 per violation. For purposes of this subparagraph, each sale and each product offered for sale shall be considered a separate violation. Continued offers to sell by a person 10 or more days after written notice (including through electronic message) to the person by the Attorney General or the Secretary shall be considered additional violations.

''(2) Any person who violates subsection (a) with a product that was, at the time of the violation, included on the list described in subsection (d) shall be subject to twice the civil penalty provided in paragraph (1).

''(3) In this subsection, the term 'product' means a discrete article, either in bulk or in finished form prepared for sale. A number of articles, if similarly packaged and bearing identical labels, shall be considered as one product, but each package size, form, or differently labeled article shall be considered a separate product.

''(d) IDENTIFICATION AND PUBLICATION OF LIST OF PRODUCTS CONTAINING ANABOLIC STEROIDS.—

''(1) The Attorney General may, in his discretion, collect data and analyze products to determine whether they contain anabolic steroids and are properly labeled in accordance with this section. The Attorney General may publish in the Federal Register or on the website of the Drug Enforcement Administration a list of products that he has determined, based on substantial evidence, contain an anabolic steroid and are not labeled in accordance with this section.

''(2) The absence of a product from the list referred to in paragraph (1) shall not constitute evidence that the product does not contain an anabolic steroid.''.

(b) SENTENCING COMMISSION GUIDELINES.—The United States Sentencing Commission shall—

(1) review and amend the Federal sentencing guidelines with respect to offenses involving anabolic steroids, including the offenses established under the amendments made by subsection (a) (section 305A of the Controlled Substance Act);

(2) amend the Federal sentencing guidelines, including notes to the drug quantity tables, to provide clearly that in a case involving an anabolic steroid not in a tablet, capsule, liquid, or other form where dosage can be readily ascertained (such as a powder, topical cream, gel, or aerosol), the sentence shall be determined based on the entire weight of the mixture or substance;

(3) amend the applicable guidelines by designating quantities of mixture or substance that correspond to a unit so that offenses involving such forms of anabolic steroids are penalized at least as severely as offenses involving forms whose dosage can be readily ascertained; and

(4) take such other action as the Commission considers necessary to carry out this section.

(c) CONGRESSIONAL OVERSIGHT.—The Administrator of the Drug Enforcement Administration shall report to Congress every 2 years—

(1) what anabolic steroids have been scheduled on a temporary basis under this section; and

(2) the findings and conclusions that led to such scheduling.

SA 4694. Mr. INOUYE (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE V—SEAFOOD SAFETY

SEC. 501. SHORT TITLE.

This title may be cited as the ''Commercial Seafood Consumer Protection Act''.

SEC. 502. COMMERCIALLY-MARKETED SEAFOOD CONSUMER PROTECTION SAFETY NET.

(a) IN GENERAL.—The Secretary of Commerce shall, in coordination with the Federal Trade Commission and other appropriate Federal agencies, and consistent with the international obligations of the United States, strengthen Federal consumer protection activities for ensuring that commercially-distributed seafood in the United States meets the food quality and safety requirements of applicable Federal laws.

(b) INTERAGENCY AGREEMENTS.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary and other appropriate Federal agencies shall execute memoranda of understanding or other agreements to strengthen interagency cooperation on seafood safety, seafood labeling, and seafood fraud.

(2) SCOPE OF AGREEMENTS.—The agreements shall include provisions, as appropriate for each such agreement, for—

(A) cooperative arrangements for examining and testing seafood imports that leverage the resources, capabilities, and authorities of each party to the agreement;

(B) coordination of inspections of foreign facilities to increase the percentage of imported seafood and seafood facilities inspected;

(C) standardizing data on seafood names, inspection records, and laboratory testing to improve interagency coordination;

(D) coordination of the collection, storage, analysis, and dissemination of all applicable information, intelligence, and data related to the importation, exportation, transportation, sale, harvest, processing, or trade of seafood in order to detect and investigate violations under applicable Federal laws, and to carry out the provisions of this title;

(E) developing a process for expediting imports of seafood into the United States from foreign countries and exporters that consistently adhere to the highest standards for ensuring seafood safety;

(F) coordination to track shipments of seafood in the distribution chain within the United States;

(G) enhancing labeling requirements and methods of assuring compliance with such requirements to clearly identity species and prevent fraudulent practices;

(H) a process by which officers and employees of the National Oceanic and Atmospheric Administration may be commissioned by the head of any other appropriate Federal agency to conduct or participate in seafood examinations and investigations under applicable Federal laws administered by such other agency;

(I) the sharing of information concerning observed non-compliance with United States seafood requirements domestically and in foreign countries and new regulatory decisions and policies that may affect regulatory outcomes;

(J) conducting joint training on subjects that affect and strengthen seafood inspection effectiveness by Federal authorities;

(K) sharing, to the maximum extent allowable by law, all applicable information, intelligence, and data related to the importation, exportation, transportation, sale, harvest, processing, or trade of seafood in order to detect and investigate violations under applicable Federal laws, or otherwise to carry out the provisions of this title; and

(L) outreach to private testing laboratories, seafood industries, and the public on Federal efforts to enhance seafood safety and compliance with labeling requirements, including education on Federal requirements for seafood safety and labeling and information on how these entities can work with appropriate Federal agencies to enhance and improve seafood inspection and assist in detecting and preventing seafood fraud and mislabeling.

(3) ANNUAL REPORTS ON IMPLEMENTATION OF AGREEMENTS.—The Secretary, the Chairman of the Federal Trade Commission, and the heads of other appropriate Federal agencies that are parties to agreements executed under paragraph (1) shall submit, jointly or severally, an annual report to the Congress concerning—

(A) specific efforts taken pursuant to the agreements;

(B) the budget and personnel necessary to strengthen seafood safety and labeling and prevent seafood fraud; and

(C) any additional authorities necessary to improve seafood safety and labeling and prevent seafood fraud.

(c) MARKETING, LABELING, AND FRAUD REPORT.—Within 1 year after the date of enactment of this Act, the Secretary and the Chairman of the Federal Trade Commission shall submit a joint report to the Congress on consumer protection and enforcement efforts with respect to seafood marketing and labeling in the United States. The report shall include—

(1) findings with respect to the scope of seafood fraud and deception in the United States market and its impact on consumers;

(2) information on how the National Oceanic and Atmospheric Administration and the Federal Trade Commission can work together more effectively to address fraud and unfair or deceptive acts or practices with respect to seafood;

(3) detailed information on the enforcement and consumer outreach activities undertaken by the National Oceanic and Atmospheric Administration and the Federal Trade Commission during the preceding year pursuant to this title; and

(4) an examination of the scope of unfair or deceptive acts or practices in the United States market with respect to foods other than seafood and whether additional enforcement authority or activity is warranted.

(d) NOAA SEAFOOD INSPECTION AND MARKING COORDINATION.—

(1) DECEPTIVE MARKETING AND FRAUD.—The National Oceanic and Atmospheric Administration shall report deceptive seafood marketing and fraud to the Federal Trade Commission pursuant to an agreement under subsection (b).

(2) APPLICATION WITH EXISTING AGREEMENTS.—Nothing in this title shall be construed to impede, minimize, or otherwise affect any agreement or agreements regarding cooperation and information sharing in the inspection of fish and fishery products and establishments between the Department of Commerce and the Department of Health and Human Services in effect on the date of enactment of this Act. Within 6 months after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Health and Human Services shall submit a joint report to the Congress on implementation of any such agreement or agreements, including the extent to which the Food and Drug Administration has taken into consideration information resulting from inspections conducted by the Department of Commerce in making risk-based determinations such as the establishment of inspection priorities for domestic and foreign facilities and the examination and testing of imported seafood.

(3) COORDINATION WITH SEA GRANT PROGRAM.—The Administrator of the National Oceanic and Atmospheric Administration shall ensure that the NOAA Seafood Inspection Program is coordinated with the Sea Grant Program to provide outreach to States, consumers, and the seafood industry on seafood testing, seafood labeling, and seafood substitution, and strategies to combat mislabeling and fraud.

SEC. 503. CERTIFIED LABORATORIES.

Within 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall increase the number of laboratories certified to the standards of the Food and Drug Administration in the United States and in countries that export seafood to the United States for the purpose of analyzing seafood and ensuring that the laboratories, including Federal, State, and private facilities, comply with applicable Federal laws. Within 1 year after the date of enactment of this Act, the Secretary of Commerce shall publish in the Federal Register a list of certified laboratories. The Secretary shall update and publish the list no less frequently than annually.

SEC. 504. NOAA LABORATORIES.

In any fiscal year beginning after the date of enactment of this Act, the Secretary may increase the number and capacity of laboratories operated by the National Oceanic and Atmospheric Administration involved in carrying out testing and other activities under this title to the extent that the Secretary determines that increased laboratory capacity is necessary to carry out the provisions of this title and as provided for in appropriations Acts.

SEC. 505. CONTAMINATED SEAFOOD.

(a) REFUSAL OF ENTRY.—The Secretary of Health and Human Services may issue an order refusing admission into the United States of all imports of seafood or seafood products originating from a country or exporter if the Secretary determines that shipments of such seafood or seafood products do not meet the requirements established under applicable Federal law.

(b) INCREASED TESTING.—If the Secretary of Health and Human Services determines that seafood imports originating from a country may not meet the requirements of Federal law, and determines that there is a lack of adequate certified laboratories to provide for the entry of shipments pursuant to section 503, then the Secretary may order an increase in the percentage of shipments tested of seafood originating from such country to improve detection of potential violations of such requirements.

(c) ALLOWANCE OF INDIVIDUAL SHIPMENTS FROM EXPORTING COUNTRY OR EXPORTER.—Notwithstanding an order under subsection (a) with respect to seafood originating from a country or exporter, the Secretary may permit individual shipments of seafood originating in that country or from that exporter to be admitted into the United States if—

(1) the exporter presents evidence from a laboratory certified by the Secretary that a shipment of seafood meets the requirements of applicable Federal laws; and

(2) the Secretary, or other agent of a Federal agency authorized to conduct inspections of seafood, has inspected the shipment and has found that the shipment and the conditions of manufacturing meet the requirements of applicable Federal laws.

(d) CANCELLATION OF ORDER.—The Secretary may cancel an order under subsection (a) with respect to seafood exported from a country or exporter if all shipments into the United States under subsection (c) of seafood originating in that country or from that exporter more than 1 year after the date on which the Secretary issued the order have been found, under the procedures described in subsection (c), to meet the requirements of Federal law. If the Secretary determines that an exporter has failed to comply with the requirements of an order under subsection (a), the 1-year period in the preceding sentence shall run from the date of that determination rather than the date on which the order was issued.

(e) EFFECT.—This section shall be in addition to, and shall have no effect on, the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to seafood, seafood products, or any other product.

SEC. 506. INSPECTION TEAMS.

(a) INSPECTION OF FOREIGN SITES.—The Secretary, in cooperation with the Secretary of Health and Human Services, may send 1 or more inspectors to a country or exporter from which seafood exported to the United States originates. The inspection team shall assess practices and processes being used in connection with the farming, cultivation, harvesting, preparation for market, or transportation of such seafood and may provide technical assistance related to the requirements established under applicable Federal laws to address seafood fraud and safety. The inspection team shall prepare a report for the Secretary of Commerce with its findings. The Secretary of Commerce shall make a copy of the report available to the country or exporter that is the subject of the report and provide a 30-day period during which the country or exporter may provide a rebuttal or other comments on the findings to the Secretary.

(b) DISTRIBUTION AND USE OF REPORT.—The Secretary shall provide the report to the Secretary of Health and Human Services as information for consideration in making risk-based determinations such as the establishment of inspection priorities of domestic and foreign facilities and the examination and testing of imported seafood. The Secretary shall provide the report to the Executive Director of the Federal Trade Commission for consideration in making recommendations to the Chairman of the Federal Trade Commission regarding consumer protection to prevent fraud, deception, and unfair business practices in the marketplace.

SEC. 507. SEAFOOD IDENTIFICATION.

(a) STANDARIZED LIST OF NAMES FOR SEAFOOD.—The Secretary and the Secretary of Health and Human Services shall initial a joint rulemaking proceeding to develop and make public a list of standardized names for seafood identification purposes at distribution, marketing, and consumer retail stages. The list of standardized names shall take into account taxonomy, current labeling regulations, international law and custom, market value, and naming precedence for all commercially-distributed seafood distributed in interstate commerce in the United States and may not include names, whether similar to existing or commonly used names for species, that are likely to confuse or mislead consumers.

(b) PUBLICATION OF LIST.—The list of standardized names shall be made available to the public on Department of Health and Human Services and the Department of Commerce websites, shall be open to public review and comment, and shall be updated annually.

SEC. 508. DEFINITIONS.

In this title:

(1) APPLICABLE FEDERAL LAWS.—The term ''applicable laws and regulations'' means Federal statutes, regulations, and international agreements pertaining to the importation, exportation, transportation, sale, harvest, processing, or trade of seafood, including the Magnuson-Stevens Fishery Conservation and Management Act, section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381), section 203 of the Food Allergen Labeling and Consumer Protection Act of 2004 (21 U.S.C. 374a), and the Seafood Hazard Analysis and Critical Control Point regulations in part 123 of title 21, Code of Federal Regulations.

(2) APPROPRIATE FEDERAL AGENCIES.—The term ''appropriate Federal agencies'' includes the Department of Health and Human Services, the Federal Food and Drug Administration, the Department of Homeland Security, and the Department of Agriculture.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SA 4695. Mr. BOND (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 3538, to improve the cyber security of the United States and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Cyber Infrastructure Protection Act of 2010''.

SEC. 2. DEFINITIONS.

In this Act:

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

(A) the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Homeland Security and Governmental Affairs, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Energy and Commerce, the

Committee on Homeland Security, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) CRITICAL INFRASTRUCTURE.—The term ''critical infrastructure'' has the meaning given that term in section 1016 of the Critical Infrastructures Protection Act of 2001 (42 U.S.C. 5195c).

(3) CYBER SECURITY ACTIVITIES.—The term ''cyber security activities'' means a class or collection of similar cyber security operations of a Federal agency that involves personally identifiable data that is—

(A) screened by a cyber security system outside of the Federal agency that was the intended recipient of the personally identifiable data;

(B) transferred, for the purpose of cyber security, outside such Federal agency; or

(C) transferred, for the purpose of cyber security, to an element of the intelligence community.

(4) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''Executive agency'' in section 105 of title 5, United States Code.

(5) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(6) LOCAL GOVERNMENT.—The term ''local government'' has the meaning given that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(7) NATIONAL CYBER SECURITY PROGRAM.—The term ''National Cyber Security Program'' means the programs, projects, and activities of the Federal Government to protect and defend Federal Government information networks and to facilitate the protection and defense of United States information networks.

(8) NETWORK.—The term ''network'' has the meaning given that term by section 4(5) of the High-Performance Computing Act of 1991 (15 U.S.C. 5503(5)).

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

TITLE I—NATIONAL CYBER CENTER

SEC. 101. DIRECTOR DEFINED.

In this title, except as otherwise specifically provided, the term ''Director'' means the Director of the National Cyber Center appointed under section 103.

SEC. 102. ESTABLISHMENT OF THE NATIONAL CYBER CENTER.

There is a National Cyber Center.

SEC. 103. DIRECTOR OF THE NATIONAL CYBER CENTER.

(a) IN GENERAL.—The head of the National Cyber Center is the Director of the National Cyber Center, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) TERM AND CONDITIONS OF APPOINTMENT.—A Director shall serve for a term not to exceed five years and during such term may not simultaneously serve in any other capacity in the Executive branch.

(c) REPORTING AND PLACEMENT.—

(1) REPORTING.—The Director shall report directly to the President.

(2) PLACEMENT.—The position of the Director shall not be located within the Executive Office of the President.

(d) DUTIES OF THE DIRECTOR.—The Director shall—

(1) coordinate Federal Government defensive operations, intelligence collection and analysis, and activities to protect and defend Federal Government information networks;

(2) act as the principal adviser to the President, the National Security Council, and to the heads of Federal agencies on matters relating to the protection and defense of Federal Government information networks;

(3) coordinate, and ensure the adequacy of, the National Cyber Security Program budgets for Federal agencies;

(4) maintain and disperse funds from the National Cyber Defense Contingency Fund in accordance with section 108;

(5) ensure appropriate coordination within the Federal Government for the implementation of any cyber security activities conducted by a Federal agency;

(6) ensure appropriate coordination within the Federal Government for the conduct of any operations, strategies, and intelligence collection and analysis relating to the protection and defense of Federal Government information networks;

(7) provide recommendations, on an ongoing basis, to Federal agencies, private sector entities, and public and private sector entities operating critical infrastructure for procedures to be implemented in the event of an imminent cyber attack that will protect critical infrastructure by mitigating network vulnerabilities;

(8) provide assistance to, and cooperate with, the Cyber Defense Alliance established under section 202, including the development of partnerships with public and private sector entities, and academic institutions that encourage cooperation, research, development, and cyber security education and training;

(9) develop plans and policies for the security of Federal Government information networks to be implemented by the appropriate Federal agency;

(10) participate in the process to develop reliability standards pursuant to section 215 of the Federal Power Act (16 U.S.C. 824o);

(11) develop plans and policies for the sharing of cyber threat-related information among appropriate Federal agencies, and to the extent consistent with the protection of national security sources and methods, with State, tribal, and local government departments, agencies, and entities, and public and private sector entities that operate critical infrastructure;

(12) develop policies and procedures to ensure the continuity of Federal Government operations in the event of a national cyber crisis; and

(13) perform such other functions as may be directed by the President.

SEC. 104. MISSIONS OF THE NATIONAL CYBER CENTER.

(a) IN GENERAL.—The National Cyber Center shall—

(1) serve as the primary organization for coordinating Federal Government defensive operations, intelligence collection and analysis, and activities to protect and defend Federal Government information networks;

(2) develop policies and procedures for implementation across the Federal Government on matters relating to the protection and defense of Federal Government information networks;

(3) provide a process for resolving conflicts among Federal agencies relating to the implementation of cyber security activities or the conduct of operations, strategies, and intelligence collection and analysis relating to the protection and defense of Federal Government information networks;

(4) assign roles and responsibilities to Federal agencies, as appropriate, for the protection and defense of Federal Government information networks that are consistent with applicable law; and

(5) ensure that, as appropriate, Federal agencies have access to, and receive, information, including appropriate private sector information, regarding cyber threats to Federal Government information networks.

(b) ACCESS TO INTELLIGENCE.—The Director shall have access to all intelligence relating to cyber security collected by any Federal agency—

(1) except as otherwise provided by law;

(2) unless otherwise directed by the President; or

(3) unless the Attorney General and the Director agree on guidelines to limit such access.

SEC. 105. COMPOSITION OF NATIONAL CYBER CENTER.

(a) INTEGRATION OF RESOURCES.—Not later than 90 days after the date of the confirmation of the initial Director, the Secretary of Defense, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation shall, in consultation with the Director, collocate and integrate within the National Cyber Center such elements, offices, task forces, and other components of the Department of Defense, the Department of Homeland Security, the intelligence community, and the Federal Bureau of Investigation that are necessary to carry out the missions of the National Cyber Center.

(b) PARTICIPATION OF FEDERAL AGENCIES.—Any Federal agency not referred to in subsection (a) may participate in the National Cyber Center if the head of such Federal agency and the Director agree on the level and type of such participation.

(c) RECOMMENDATIONS FOR CONSOLIDATION.—In order to reduce duplication of Federal Government efforts, the Director may recommend that the President transfer to, and consolidate within, the National Cyber Center activities that relate to the protection and defense of Federal Government information networks.

(d) INTEGRATION OF INFORMATION NETWORKS.—The Director shall, in coordination with the appropriate head of a Federal agency, oversee the integration within the National Cyber Center of information relating to the protection and defense of Federal Government information networks, including to the extent necessary and consistent with the protection of sources and methods, databases containing such information.

SEC. 106. NATIONAL CYBER CENTER OFFICIALS.

(a) DEPUTY DIRECTORS.—

(1) IN GENERAL.—There shall be two Deputy Directors of the National Cyber Center as follows:

(A) A Deputy Director who shall be appointed by the Secretary of Defense, with the concurrence of the Director.

(B) A Deputy Director who shall be appointed by the Secretary of Homeland Security, with the concurrence of the Director.

(2) APPOINTMENT CRITERIA.—An individual appointed Deputy Director of the National Cyber Center shall have extensive cyber security and management expertise.

(3) DUTIES.—Each Deputy Director of the National Cyber Center shall assist the Director in carrying out the duties and responsibilities of the Director.

(4) VACANCY.—

(A) ABSENCE OR DISABILITY OF DIRECTOR.—As determined by the Director, a Deputy Director of the National Cyber Center shall act for, and exercise the powers of, the Director during the absence or disability of the Director.

(B) VACANCY IN POSITION OF DIRECTOR.—As determined by the President, a Deputy Director of the National Cyber Center shall act for, and exercise the powers of, the Director during a vacancy in the position of the Director.

(b) GENERAL COUNSEL.—

(1) IN GENERAL.—There is a General Counsel of the National Cyber Center who shall be appointed by the Director.

(2) DUTIES.—The General Counsel is the chief legal officer of the National Cyber Center and shall perform such functions as the Director may prescribe.

(c) OTHER OFFICIALS.—The Director may designate such other officials in the National Cyber Center as the Director determines appropriate.

(d) STAFF.—To assist the Director in fulfilling the duties and responsibilities of the Director, the Director shall employ and utilize a professional staff having expertise in matters relating to the mission of the National Cyber Center, and may establish permanent positions and appropriate rates of pay with respect to such staff.

SEC. 107. NATIONAL CYBER SECURITY PROGRAM BUDGET.

(a) SUBMISSION OF CYBER BUDGET REQUEST TO THE DIRECTOR.—For each fiscal year, the head of each Federal agency with responsibilities for matters relating to the protection and defense of Federal Government information networks shall transmit to the Director a copy of the proposed National Cyber Security Program budget request of the agency prior to the submission of such proposed budget request to the Office of Management and Budget in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

(b) REVIEW AND CERTIFICATION OF BUDGET REQUESTS AND BUDGET SUBMISSIONS.—

(1) IN GENERAL.—The Director shall review each budget request submitted to the Director under subsection (a).

(2) REVIEW OF BUDGET REQUESTS.—

(A) INADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under subsection (a) for a Federal agency is inadequate to accomplish the protection and defense of Federal Government information networks, or to facilitate the protection and defense of United States information networks, with respect to such Federal agency for the year for which the request is submitted, the Director shall submit to the head of such Federal agency a written description of funding levels and specific initiatives that would, in the determination of the Director, make the request adequate to accomplish the protection and defense of such information networks.

(B) ADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under subsection (a) for a Federal agency is adequate to accomplish the protection and defense of Federal Government information networks, or to facilitate the protection and defense of United States information networks, with respect to such Federal agency for the year for which the request is submitted, the Director shall submit to the head of such Federal agency a written statement confirming the adequacy of the request.

(C) RECORD.—The Director shall maintain a record of each description submitted under subparagraph (A) and each statement submitted under subparagraph (B).

(3) AGENCY RESPONSE.—

(A) IN GENERAL.—The head of a Federal agency that receives a description under paragraph (2)(A) shall include the funding levels and initiatives described by the Director in the National Cyber Security Program budget submission for such Federal agency to the Office of Management and Budget.

(B) IMPACT STATEMENT.—If the head of a Federal agency alters the National Cyber Security Program budget submission of such agency based on a description received under paragraph (2)(A), such head shall include as an appendix to the budget submitted to the Office of Management and Budget for such agency an impact statement that summarizes—

(i) the changes made to the budget based on such description; and

(ii) the impact of such changes on the ability of such agency to perform its other responsibilities, including any impact on specific missions or programs of such agency.

(4) CONGRESSIONAL NOTIFICATION.—The head of a Federal agency shall submit to Congress a copy of any impact statement prepared under paragraph (3)(B) at the time the National Cyber Security Program budget for such agency is submitted to Congress under section 1105(a) of title 31, United States Code.

(5) CERTIFICATION OF NATIONAL CYBER SECURITY PROGRAM BUDGET SUBMISSIONS.—

(A) IN GENERAL.—At the time the head of a Federal agency submits a National Cyber Security Program budget request for such agency for a fiscal year to the Office of Management and Budget, such head shall submit a copy of the National Cyber Security Program budget request to the Director.

(B) DECERTIFICATION.—

(i) IN GENERAL.—The Director shall review each National Cyber Security Program budget request submitted under subparagraph (A).

(ii) BUDGET DECERTIFICATION.—If, based on the review under clause (i), the Director concludes that such budget request does not include the funding levels and specific initiatives that would, in the determination of the Director, make the request adequate to accomplish the protection and defense of Federal Government information networks, or to facilitate the protection and defense of United States information networks, the Director may issue a written decertification of such Federal agency's budget.

(iii) SUBMISSION TO CONGRESS.—In the case of a decertification of a budget request issued under clause (ii), the Director shall submit to Congress a copy of—

(I) such National Cyber Security Program budget request;

(II) such decertification; and

(III) the description made for the budget request under paragraph (2)(B).

(c) CONSOLIDATED NATIONAL CYBER SECURITY PROGRAM BUDGET PROPOSAL.—For each fiscal year, following the transmission of proposed National Cyber Security Program budget requests for Federal agencies to the Director under subsection (a), the Director shall, in consultation with the head of such Federal agencies—

(1) develop a consolidated National Cyber Security Program budget proposal;

(2) submit the consolidated budget proposal to the President; and

(3) after making the submission required by paragraph (2), submit the consolidated budget proposal to Congress.

SEC. 108. NATIONAL CYBER DEFENSE CONTINGENCY FUND.

(a) ESTABLISHMENT OF FUND.—There is established within the National Cyber Security Program Budget a fund to be known as the ''National Cyber Defense Contingency Fund,'' which shall consist of amounts appropriated to the Fund for the purpose of providing financial assistance and technical and operational support in the event of a significant cyber incident.

(b) ADMINISTRATION.—The Director shall be responsible for the administration and management of the amounts in the National Cyber Defense Contingency Fund.

(c) USE.—In response to a significant cyber incident involving Federal Government or United States information networks, the Director may distribute amounts from the National Cyber Defense Contingency Fund to appropriate Federal agencies.

(d) NOTIFICATION.—Prior to distributing amounts under this section, the Director shall notify the appropriate congressional committees.

(e) SIGNIFICANT CYBER INCIDENT DEFINED.—In this section, the term ''significant cyber incident'' means a malicious act, suspicious event, or accident that—

(1) causes a disruption of Federal Government or United States information networks;

(2) affects one or more Federal agencies or public or private sector entities operating critical infrastructure;

(3) affects more than one State or a substantial number of residents in one or more States; and

(4) results in a substantial likelihood of harm or financial loss to the United States or its citizens.

SEC. 109. PROGRAM BUDGET SUBMISSION.

(a) SUBMISSION.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

''(38) a separate statement of the combined and individual amounts of appropriations requested for the National Cyber Security Program, including a separate statement of the amounts of appropriations requested by the Secretary of Defense for the operation and activities of the National Cyber Center and a separate statement of the amounts of appropriations requested by the Secretary of Energy for the operation and activities of the Cyber Defense Alliance.''.

(b) TECHNICAL AMENDMENTS.—Section 1105(a) of title 31, United States Code, as amended by subsection (a), is further amended—

(1) by redesignating the paragraph (33) added by section 889 of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2250) as paragraph (35);

(2) by redesignating the paragraph (35) added by section 203 of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343; 122 Stat. 3765) as paragraph (36); and

(3) by redesignating the paragraph (36) added by section 2 of the Veterans Health Care Budget Reform and Transparency Act of 2009 (Public Law 111–81; 123 Stat. 2137) as paragraph (37).

SEC. 110. CONSTRUCTION.

Except as otherwise specifically provided, nothing in this title shall be construed as terminating, altering, or otherwise affecting any authority of the head of a Federal agency collocated within or otherwise participating in the National Cyber Center.

SEC. 111. CONGRESSIONAL OVERSIGHT.

The Director shall keep the appropriate congressional committees fully and currently informed of the significant activities of the National Cyber Center relating to ensuring the security of Federal Government information networks.

TITLE II—CYBER DEFENSE ALLIANCE

SEC. 201. DEFINITIONS.

In this title:

(1) BOARD.—The term ''Board'' means the Board of Directors of the Cyber Defense Alliance established pursuant to section 204(a).

(2) NATIONAL LABORATORY.—The term ''National Laboratory'' has the meaning given that term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

SEC. 202. CYBER DEFENSE ALLIANCE.

(a) CHARTER.—There is within a National Laboratory a public and private partnership for sharing cyber threat information and exchanging technical assistance, advice, and support to be known as the Cyber Defense Alliance.

(b) ESTABLISHMENT.—The Secretary of Energy, in coordination with the Director of the National Cyber Center, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, and the Director of the Federal Bureau of Investigation, shall determine the appropriate

location for, and establish, the Cyber Defense Alliance.

(c) CRITERIA.—The criteria to be used in selecting a National Laboratory under subsection (a) shall include the following:

(1) Whether the National Laboratory has received recognition from members of the intelligence community, the Secretary of Homeland Security, or the Secretary of Defense for its cyber capabilities.

(2) Whether the National Laboratory has demonstrated the ability to address cyber-related issues involving varying levels of classified information.

(3) Whether the National Laboratory has demonstrated the capability to develop cooperative relationships with the private sector on cyber-related issues.

(d) PARTNERSHIP.—If the Secretary of Energy, the Director of the National Cyber Center, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, and the Director of the Federal Bureau of Investigation determine that the missions and activities of the Cyber Defense Alliance may only be accomplished through a partnership of two or more National Laboratories acting jointly to support the Alliance, then the Alliance may be established and located within such National Laboratories.

SEC. 203. MISSION AND ACTIVITIES.

The Cyber Defense Alliance shall—

(1) facilitate the exchange of ideas and technical assistance and support related to the security of public, private, and critical infrastructure information networks;

(2) promote research and development, including the advancement of private funding for research and development, related to ensuring the security of public, private, and critical infrastructure information networks;

(3) serve as a national clearinghouse for the exchange of cyber threat information for the benefit of the private sector, educational institutions, State, tribal, and local governments, public and private sector entities operating critical infrastructure, and the Federal Government in order to enhance the ability of recipients of such information to ensure the protection and defense of public, private, and critical infrastructure information networks; and

(4) coordinate with the private sector, State, tribal, and local governments, the governments of foreign countries, international organizations, and academic institutions in developing and encouraging the use of voluntary standards for enhancing the security of information networks.

SEC. 204. BOARD OF DIRECTORS.

(a) IN GENERAL.—The Cyber Defense Alliance shall have a Board of Directors which shall be responsible for—

(1) the executive and administrative operation of the Alliance, including matters relating to funding and promotion of the Alliance; and

(2) ensuring and facilitating compliance by members of the Alliance with the requirements of this title.

(b) COMPOSITION.—The Board shall be composed of the following members:

(1) One representative of the Department of Energy.

(2) Four representatives of Federal agencies, other than the Department of Energy, that have significant responsibility for the protection or defense of government information networks.

(3) Two representatives from the private sector, one of whom shall have experience in civil liberties matters.

(4) Two representatives of State, tribal, and local government departments, agencies, or entities.

(5) Two representatives from the financial sector.

(6) Two representatives from electronic communication service providers.

(7) Two representatives from the transportation industry.

(8) Two representatives from the chemical industry.

(9) Two representatives from a public or private electric utility company or other generators of power.

(10) One representative from an academic institution with established expertise in cyber-related matters.

(11) One additional representative with considerable expertise in cyber-related matters.

(c) INITIAL APPOINTMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of the National Cyber Center, the Secretary of Energy, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, and the Director of the Federal Bureau of Investigation shall jointly appoint the members of the Board described under subsection (b).

(d) TERMS.—

(1) REPRESENTATIVES OF CERTAIN FEDERAL AGENCIES.—Each member of the Board described in subsection (b)(1) shall serve for a term that is—

(A) not longer than three years from the date of the member's appointment; and

(B) determined jointly by the Director of the National Cyber Center, the Secretary of Energy, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, and the Director of the Federal Bureau of Investigation.

(2) OTHER REPRESENTATIVES.—The original members of the Board described in paragraphs (3) through (11) of subsection (b) shall serve an initial term of one year from the date of appointment under subsection (c), at which time the members of the Cyber Defense Alliance shall conduct elections in accordance with the procedures established under subsection (e).

(e) RULES AND PROCEDURES.—Not later than 90 days after the date of the enactment of this Act, the Board shall establish rules and procedures for the election and service of members of the Board described in paragraphs (3) through (11) of subsection (b).

(f) LEADERSHIP.—The Board shall elect from among its members a chair and co-chair of the Board, who shall serve under such terms and conditions as the Board may establish.

(g) SUB-BOARDS.—The Board shall have the authority to constitute such sub-Boards, or other advisory groups or panels, from among the members of the Board as may be necessary to assist the Board in carrying out its functions under this section.

SEC. 205. CYBER DEFENSE ALLIANCE MEMBERSHIP.

(a) REQUIREMENT FOR PROCEDURES.—Not later than 90 days after the date of the enactment of this Act, the Board shall establish procedures for the voluntary membership by State, tribal, and local government departments, agencies, and entities, private sector businesses and organizations, and academic institutions in the Cyber Defense Alliance.

(b) PARTICIPATION BY FEDERAL AGENCIES.—The Director of the National Cyber Center, in coordination with the Secretary of Energy, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, the Director of the Federal Bureau of Investigation, and the heads of other appropriate Federal agencies, may provide for the participation and cooperation of such Federal agencies in the Cyber Defense Alliance.

SEC. 206. FUNDING.

(a) INITIAL EXPENSES.—Administrative and logistical expenses associated with the initial establishment of the Cyber Defense Alliance shall be paid by the Secretary of Energy and shall be included within the National Cyber Security Program budget request for the Department of Energy.

(b) OTHER EXPENSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), annual administrative and operational expenses for the Cyber Defense Alliance shall be paid by the members of such Alliance, as determined by the Board.

(2) MAXIMUM FEDERAL CONTRIBUTION.—Not more than 15 percent of the annual expenses referred to in paragraph (1) may be paid by the Federal Government. Such amount shall be provided under the direction of the Secretary of Energy and shall be included within the National Cyber Security Program budget request for the Department of Energy.

SEC. 207. CLASSIFIED INFORMATION.

Consistent with the protection of sensitive intelligence sources and methods, the Director of National Intelligence shall facilitate—

(1) the sharing of classified information in the possession of a Federal agency related to threats to information networks with appropriately cleared members of the Alliance, including representatives of the private sector and of public and private sector entities operating critical infrastructure; and

(2) the declassification and sharing of information in the possession of a Federal agency related to threats to information networks with members of the Alliance.

SEC. 208. VOLUNTARY INFORMATION SHARING.

(a) USES OF SHARED INFORMATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to paragraph (2), information shared with or provided to the Cyber Defense Alliance or to a Federal agency through such Alliance by any member of the Cyber Defense Alliance that is not a Federal agency in furtherance of the mission and activities of the Alliance as described in section 203—

(A) shall be exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(B) shall not be subject to the rules of any Federal agency or any judicial doctrine regarding ex parte communications with a decision-making official;

(C) shall not, without the written consent of the person or entity submitting such information, be used directly by any Federal agency, any other Federal, State, tribal, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted to the Cyber Defense Alliance in good faith and for the purpose of facilitating the missions of such Alliance;

(D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this title, except—

(i) in furtherance of an investigation or the prosecution of a criminal act; or

(ii) the disclosure of the information to the appropriate congressional committee;

(E) shall not, if subsequently provided to a State, tribal, or local government or government agency—

(i) be made available pursuant to any State, tribal, or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by such State, tribal, or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting information systems, or in furtherance of an investigation or the prosecution of a criminal act; and

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

(2) APPLICATION.—Paragraph (1) shall only apply to information shared with or provided to the Cyber Defense Alliance or to a Federal agency through such Alliance by a member of the Cyber Defense Alliance that is not a Federal agency if such information is accompanied by an express statement requesting that such paragraph apply.

(b) LIMITATION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any communication of information to a Federal agency made pursuant to this title.

(c) PROCEDURES.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall, in consultation with the heads of appropriate Federal agencies, establish uniform procedures for the receipt, care, and storage by such agencies of information that is voluntarily submitted to the Federal Government through the Cyber Defense Alliance.

(2) ELEMENTS.—The procedures established under paragraph (1) shall include procedures for—

(A) the acknowledgment of receipt by a Federal agency of cyber threat information that is voluntarily submitted to the Federal Government;

(B) the maintenance of the identification of such information;

(C) the care and storage of such information;

(D) limiting subsequent dissemination of such information to ensure that such information is not used for an unauthorized purpose;

(E) the protection of the constitutional and statutory rights of any individuals who are subjects of such information; and

(F) the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State, tribal, and local governments, and the issuance of notices and warnings related to the protection of information networks, in such manner as to protect from public disclosure the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting person or entity, and is otherwise not appropriately in the public domain.

(d) INDEPENDENTLY OBTAINED INFORMATION.—Nothing in this section shall be construed to limit or otherwise affect the ability of a Federal agency, a State, tribal, or local government or government agency, or any third party—

(1) to obtain cyber threat information in a manner other than through the Cyber Defense Alliance, including obtaining any information lawfully and properly disclosed generally or broadly to the public; and

(2) to use such information in any manner permitted by law.

SEC. 209. PENALTIES.

(a) IN GENERAL.—It shall be unlawful for any officer or employee of the United States or of any Federal agency to knowingly publish, divulge, disclose, or make known in any manner or to any extent not authorized by law, any cyber threat information protected from disclosure by this title coming to such officer or employee in the course of the employee's employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such officer, employee, or agency.

(b) PENALTY.—Any person who violates subsection (a) shall be fined under title 18, United States Code, imprisoned for not more than 1 year, or both, and shall be removed from office or employment.

SEC. 210. AUTHORITY TO ISSUE WARNINGS.

The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other government entities, or the general public regarding potential threats to information networks as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted information that forms the basis for the warning; and

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

SEC. 211. EXEMPTION FROM ANTITRUST PROHIBITIONS.

The exchange of information by and between private sector members of the Cyber Defense Alliance, in furtherance of the mission and activities of the Cyber Defense Alliance, shall not be considered a violation of any provision of the antitrust laws (as defined in the first section of the Clayton Act (15 U.S.C. 12)).

SEC. 212. DURATION.

The Cyber Defense Alliance shall cease to exist on December 31, 2020.

SA 4696. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Ensuring Greater Food Safety Act of 2010''.

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

SEC. 2. ENSURING FEDERAL AGENCIES EFFECTIVELY COMMUNICATE TO ENSURE GREATER FOOD SAFETY.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary or Agriculture shall establish a plan to ensure effective information sharing regarding the regulation and inspection of food products and facilities, including violations, in which the Food and Drug Administration and the Department of Agriculture share joint, overlapping, or similar responsibility.

(b) JOINT REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Agriculture shall issue to Congress a joint report that summarizes the effectiveness, or lack of effectiveness, of the new information sharing arrangement established pursuant to subsection (a).

(c) GAO REPORT.—Not later than 1 year after the issuance of the report under subsection (b), the Comptroller General of the United States shall issue to Congress a report concerning the determination and description of any inefficiencies or other challenges that remain regarding the sharing of information as required pursuant to subsection (a).

SEC. 3. STRATEGIC PLAN FOR HEALTH INFORMATION TECHNOLOGY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, a strategic plan on information technology that includes—

(1) an assessment of the information technology infrastructure, including systems for food safety data collection, access to data in external food safety databases, data mining capabilities, personnel, and personnel training programs, needed by the Food and Drug Administration to—

(A) comply with the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

(B) achieve interoperability within the Center for Food Safety and Nutrition and between the Food and Drug Administration and the Department of Agriculture, U.S. Customs and Border Protection, and the Centers for Disease Control and Prevention;

(C) utilize electronic import and recall records; and

(D) communicate food safety and recall information to industry and the public;

(2) an assessment of the extent to which the current information technology assets of the Food and Drug Administration are sufficient to meet the needs assessments under paragraph (1);

(3) a plan for enhancing the information technology assets of the Food and Drug Administration toward meeting the needs assessments under paragraph (1); and

(4) an assessment of additional resources needed to so enhance the information technology assets of the Food and Drug Administration.

SEC. 4. EXPEDITING NEW FOOD SAFETY TECHNOLOGIES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall submit to Congress a plan for a more expeditious process for approving new technologies used to ensure the safety of the food supply.

(b) CONTENT.—The report submitted under subsection (a) shall include a description of how the Food and Drug Administration plans to provide more effective risk-communication regarding new technologies described in such report that are approved by such Administration.

SEC. 5. LIMITED ACCESS TO RECORDS IN PUBLIC HEALTH EMERGENCIES.

(a) MAINTENANCE AND INSPECTION OF RECORDS.—Section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) is amended—

(1) in subsection (a)—

(A) by inserting ''or a related article of food'' after ''such article'' each place the term appears;

(B) by inserting ''or a related article of food'' after ''whether the food''; and

(C) by adding at the end the following: ''In this subsection, the term 'related article of food' means an article of food that is related to the article of food the Secretary has reason to believe is adulterated, such as an article of food produced on the same manufacturing line as the article of food believed to be adulterated.''; and

(2) by adding at the end the following:

''(e) FOOD-RELATED EMERGENCIES.—In the case of a food-related public health emergency declared by the Secretary under section 319 of the Public Health Service Act, the Secretary may take action as described in subsection (a) if the Secretary has a reasonable belief that such article of food—

''(1) presents a threat of serious adverse health consequences or death; and

''(2) is related to the emergency.''.

(b) FACTORY INSPECTION.—Section 704(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)(1)) is amended in the second sentence by inserting '', and in the case of a food-related public health emergency declared by the Secretary under section 319 of the Public Health Service Act, the inspection shall extend to all records and other information described in section 414 if the Secretary has a reasonable belief that such article of food presents a threat of serious adverse health consequences or death and is related to the emergency, subject to the limitations established in section 414(d)'' before the period at the end.

SEC. 6. REGISTRATION OF FOOD FACILITIES.

Section 415(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d(a)) is amended—

(1) in paragraph (2), by inserting ''(or any successor regulation)'' after ''Federal Regulations'';

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

''(3) BIENNIAL REREGISTRATION.—

''(A) IN GENERAL.—On a biennial basis, a registrant that has registered under paragraph (1) shall submit to the Secretary a reregistration containing the information described in paragraph (2).

''(B) EXPEDITED REREGISTRATION.—The Secretary may provide for an expedited reregistration process in the case of a registrant for which the information described in paragraph (2) has not changed since the preceding registration or reregistration.''.

SEC. 7. CLARIFYING FDA AUTHORITY TO REQUIRE PREVENTIVE CONTROLS.

Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

''SEC. 418. PREVENTIVE CONTROLS.

''(a) DEFINITIONS.—In this section:

''(1) CRITICAL CONTROL POINT.—The term 'critical control point' means a point, step, or procedure in a food process at which control can be applied, and, as a result, an identified food safety hazard can be prevented, eliminated, or reduced to acceptable levels.

''(2) CRITICAL LIMIT.—The term 'critical limit' means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to prevent, eliminate, or reduce to an acceptable level the occurrence of the identified food safety hazard.

''(b) REGULATIONS BY SECRETARY.—The Secretary—

''(1) may by regulation require manufacturers, processors, and packers of food to implement science-based and risk-based processes to prevent, reduce, or eliminate specific hazards from high-risk foods; and

''(2) may issue guidance to assist the relevant industry with compliance with this section.

''(c) LIMITATION.—The Secretary shall not have the authority to place any specific requirements on food safety plans required pursuant to subsection (d)(1). The authority of the Secretary under this section is limited to validating the existence of a food safety plan that meets the explicit statutory requirements provided in this section.

''(d) CONTENT.—

''(1) DETERMINATION.—The regulations under subsection (b) shall include a determination specifying the food facilities which shall be required to develop and maintain a written food safety plan. The determination shall include a careful examination of the effect on small businesses and shall include specific exemptions for firms that will be adversely impacted by the requirements of this section.

''(2) REQUIREMENT.—The regulations under subsection (b) shall require that a required food safety plan—

''(A) list the food safety hazards which the plan is intended to address;

''(B) list the critical control points for each of the identified food safety hazards;

''(C) list the critical limits that must be met at each of the critical control points;

''(D) list the procedures, and frequency thereof, that will be used to monitor each of the critical control points to ensure compliance with the critical limits;

''(E) include any corrective action plans that have been developed to be followed in response to deviations from critical limits at critical control points to either prevent the food from entering commerce, or for correcting the deviation;

''(F) list the verification procedures, and frequency thereof, that the manufacturer, processor, packer will use to ensure the plan is adequate to control identified food safety hazards and that the plan is being effectively implemented;

''(G) provide for a recordkeeping system that documents the acceptance and implementation of the plan, including calibration of instruments, monitoring of the critical control points, and corrective actions;

''(H) establish a schedule for periodic reassessment of the adequacy of the plan which shall be at least annually and whenever any changes occur that could affect the hazard analysis or alter the food safety plan; and

''(I) be modified immediately whenever a reassessment or ongoing verification reveals that the plan is no longer adequate to fully meet the requirements of this section.

''(3) DESCRIPTION.—The regulations under subsection (b) shall describe, as the Secretary determines necessary, any evidence that shall be required to accompany food imported or offered for import into the United States to verify that the food was manufactured, processed, or packed under conditions that comply with this Act. Such evidence shall be of a similar nature and stringency to that which is required by the regulations for food manufactured, processed, or packed in the United States.

''(e) OFFICIAL REVIEW.—All records, food safety plans, and procedures required by this section shall be made available to the Secretary upon request for official review and copying at reasonable times. In conducting such a review, the authority of the Secretary shall be limited to validating the existence of the plan and the Secretary shall not have the authority to alter the plan or require specific items with the plan.

''(f) PUBLIC DISCLOSURE.—All food safety plans and records required by this section shall not be made available for public disclosure unless such plans and records are data and information previously disclosed to the public (as described in section 20.81 of title 21, Code of Federal Regulations), or such plans and records relate to a food or ingredient that has been abandoned and such plans and records no longer represent a trade secret or confidential commercial or financial information (as described in section 20.61 of title 21, Code of Federal Regulations).

''(g) IMPORTS.—

''(1) IN GENERAL.—The Secretary may establish additional or substitute methods and requirements to apply to foreign manufacturers, processors, and packers of food that are of similar stringency to the methods and requirements applicable to domestic manufacturers, processors, and packers of food. Such methods or requirements shall ensure that—

''(A) food imported or offered for import into the United States is manufactured, processed, and packed in accordance with this Act; and

''(B) food manufactured, processed, or packed in a foreign country is evaluated for compliance with this Act in a similar manner as food manufactured, processed, or packed in the United States.

''(2) COMPETENT THIRD PARTY.—An importer may contract with a competent third party to assist with or perform any or all of the verification activities specified in this section.

''(h) EXCEPTIONS.—The regulations in this section shall not apply to—

''(1) harvesting food, without otherwise engaging in processing;

''(2) the operation of a retail establishment;

''(3) the manufacturing, processing, or packing of seafood or fresh juice; and

''(4) small producers that demonstrate in writing to the Secretary that complying with such regulations would adversely impact their operations.''.

SEC. 8. EXPORT CERTIFICATION FEES FOR FOODS AND ANIMAL FEED.

(a) AUTHORITY FOR EXPORT CERTIFICATIONS FOR FOOD, INCLUDING ANIMAL FEED.—Section 801(e)(4)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)(4)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''a drug'' and inserting ''a food, drug'';

(2) in clause (i) by striking ''exported drug'' and inserting ''exported food, drug''; and

(3) in clause (ii) by striking ''the drug'' each place it appears and inserting ''the food, drug''.

(b) TREATMENT OF FEES.—Section 801(e)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)(4)) is amended—

(1) by amending subparagraph (B) to read as follows:

''(B) If the Secretary issues a written export certification within the 20 days prescribed by subparagraph (A), a fee for such certification may be charged but shall not exceed $175 for each certification.''; and

(2) by inserting after subparagraph (B) the following:

''(C) With respect to fees collected for a fiscal year pursuant to subparagraph (B), the following shall apply:

''(i) In the case of fees for certification of exported drugs, animal drugs, or devices, be credited to the appropriation account for salaries and expenses of the Food and Drug Administration and be available in accordance with appropriations Acts until expended, without fiscal year limitation. To cover the cost of issuing such certifications, such sums as necessary may be transferred from such appropriation account for salaries and expenses of the Food and Drug Administration

without fiscal year limitation to such appropriation account for salaries and expenses with fiscal year limitation.

''(ii) In the case of fees for certification of exported foods, be credited to the Food and Drug Administration User Fee Account and be available in accordance with appropriations Acts until expended, without fiscal year limitation.''.

(c) CLARIFICATION OF CERTIFICATION.—Section 801(e)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)(4)), as amended by subsection (b), is amended by adding at the end the following:

''(D) For purposes of this paragraph, a certification by the Secretary shall be made on such basis, and in such form (which may include a publicly available listing) as the Secretary determines appropriate.''.

SEC. 9. LEVERAGING THIRD PARTY INSPECTIONS.

(a) IN GENERAL.—Section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) is amended by adding at the end the following:

''(h) ACCREDITATION OF ENTITIES THAT INSPECT DOMESTIC FACILITIES OR FOREIGN FACILITIES.—

''(1) DEFINITIONS.—In this subsection:

''(A) DOMESTIC FACILITY.—The term 'domestic facility' has the meaning given the term in section 415.

''(B) FOREIGN FACILITY.—The term 'foreign facility' has the meaning given the term in section 415.

''(2) VOLUNTARY USE OF ACCREDITED ENTITIES BY FACILITIES.—A domestic facility or foreign facility may employ an entity accredited under this subsection to inspect such facility to ensure compliance with this Act.

''(3) AUTHORIZATION.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Ensuring Greater Food Safety Act of 2010, the Secretary, subject to subparagraph (B), shall accredit entities for the purpose of inspecting domestic facilities or foreign facilities to ensure compliance with this Act. Such entities may include State governments or foreign government entities.

''(B) CRITERIA TO ACCREDIT ENTITIES AND CATEGORIES OF ACCREDITATION.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Ensuring Greater Food Safety Act of 2010, the Secretary shall publish in the Federal Register criteria to accredit entities, including the requirements described in clause (iii), and the categories of accreditation.

''(ii) CONSULTATION.—In developing the criteria and categories described in clause (i), the Secretary shall consult with the Secretary of Agriculture, the Secretary of Commerce, and the heads of other agencies with experience in accrediting third parties to determine the accreditation categories and criteria that are most appropriate.

''(iii) REQUIREMENTS TO BECOME ACCREDITED.—In order for an entity to be accredited under this subsection, the entity shall, at a minimum, meet the following requirements:

''(I) Such entity may not be an employee of the Federal Government.

''(II) Such entity shall be an independent organization that is not owned or controlled by a manufacturer, supplier, or vendor of food regulated under this Act and that has no organizational, material, or financial affiliation (including a consultative affiliation) with such a manufacturer, supplier, or vendor.

''(III) Such entity shall be legally constituted and permitted to conduct the inspection activities for which it seeks accreditation.

''(IV) Such entity may not engage in the design, manufacture, promotion, or sale of food regulated under this Act.

''(V) The operations of such entity shall be in accordance with generally accepted professional and ethical business practices, and such entity shall agree in writing that, at a minimum, the entity will—

''(aa) certify that reported information accurately reflects data reviewed, inspection observations made, other matters that relate to or may influence compliance with this Act, and recommendations made during an inspection or at an inspection's closing meeting;

''(bb) limit work to that for which competence and capacity are available;

''(cc) treat information received, records, reports, and recommendations as confidential commercial or financial information or trade secret information, except such information may be made available to the Secretary; and

''(dd) promptly respond and attempt to resolve complaints regarding its activities for which it is accredited.

''(iv) CATEGORIES OF ACCREDITATION.—The categories of accreditation may include—

''(I) inspection of domestic facilities only;

''(II) inspection of foreign facilities only; or

''(III) inspection of both domestic facilities and foreign facilities.

''(C) ACTING ON REQUEST FOR ACCREDITATION.—

''(i) INFORMATION ON ADEQUACY.—Not later than 60 days after the date the Secretary receives a request from an entity to be accredited under this subsection, the Secretary shall inform the entity whether the request for accreditation is adequate for review.

''(ii) DETERMINATION.—Not later than 90 days after the date the Secretary informs an entity under clause (i), the Secretary shall make a determination with respect to the request.

''(D) CONTENT OF ACCREDITATION.—Any accreditation granted under this subsection shall state that the entity is accredited to conduct inspections at domestic facilities, foreign facilities, or both, or such other categories as may be applicable.

''(E) EFFECT OF SUBSECTION.—Nothing in this subsection shall affect the authority of the Secretary under this Act to inspect any domestic facility or foreign facility.

''(4) REQUIREMENTS OF ACCREDITED ENTITIES.—

''(A) MAINTENANCE OF RECORDS.—

''(i) IN GENERAL.—An entity accredited under this subsection shall maintain records documenting—

''(I) the qualifications of the entity to inspect and the training and qualification of employees of the entity;

''(II) the procedures used by the entity for handling confidential information;

''(III) the compensation arrangements made by the entity; and

''(IV) the procedures used by the entity to identify and avoid conflicts of interest.

''(ii) ACCESS TO RECORDS.—Upon the request of an officer or employee designated by the Secretary, an entity accredited under this subsection shall permit the officer or employee, at all reasonable times, to have access to, copy, and verify the records described in clause (i).

''(iii) PRODUCTION OF RECORDS.—Not later than 15 days after the date an entity accredited under this subsection receives a written request from the Secretary for a copy of the records described in clause (i), the entity shall produce the copy at the place designated by the Secretary.

''(B) INSPECTION REPORTS.—

''(i) IN GENERAL.—In carrying out an inspection of a domestic facility or foreign facility to ensure compliance with this Act, an entity accredited under this subsection shall—

''(I) record in writing the entity's inspection observations;

''(II) present the observations to the facility's designated representative and describe each observation; and

''(III) prepare an inspection report (including for inspections for which there are no corrective actions needed) in a form and manner consistent with such reports prepared by employees and officials designated by the Secretary to conduct inspections.

''(ii) CONTENT OF REPORT.—An inspection report prepared under clause (i)(III) shall, at a minimum—

''(I) identify the person responsible for compliance with this Act at the inspected facility, the dates of the inspection, and the scope of the inspection;

''(II) describe in detail each observation identified by the entity accredited under this subsection;

''(III) identify other matters that relate to or may influence compliance with this Act; and

''(IV) describe any recommendations made by the entity accredited under this subsection to the inspected facility during the inspection or at the inspection's closing meeting.

''(iii) REPORT SENT TO THE SECRETARY.—Not later than 10 days after the last date of an inspection, the entity accredited under this subsection shall submit the inspection report prepared under clause (i)(III) to the Secretary and the designated representative of the inspected facility at the same time. The inspection report submitted to the Secretary shall be accompanied by all written inspection observations previously provided to the designated representative of the inspected facility.

''(iv) FALSE STATEMENTS.—Any statement or representation made by an employee or agent of a domestic facility or foreign facility to an entity accredited under this subsection shall be subject to section 1001 of title 18, United States Code.

''(v) IMMEDIATE NOTIFICATION.—If, at any time during an inspection by an entity accredited under this subsection, the entity discovers a condition that could cause or contribute to an unreasonable risk to the public health, the entity shall immediately notify the Secretary of the identity of the facility subject to inspection and such condition.

''(5) REQUIREMENTS OF THE SECRETARY.—

''(A) PUBLICATION OF LIST OF ACCREDITED ENTITIES ON INTERNET.—

''(i) IN GENERAL.—The Secretary shall publish on the Internet Web site of the Food and Drug Administration lists of entities that are accredited under this subsection in each category established under this subsection.

''(ii) UPDATING LISTS.—The lists described in clause (i) shall be updated to ensure that the identity of each entity accredited under this subsection, and the particular category for which the entity is accredited, is known to the public. The lists shall be updated not later than 30 days after the date on which—

''(I) an entity is accredited under this subsection;

''(II) the accreditation of an entity under this subsection is suspended or withdrawn; or

''(III) the particular category for which an entity is accredited under this subsection is modified.

''(B) AUDITS; WITHDRAWAL; DEBARMENT.—

''(i) IN GENERAL.—To ensure that entities accredited under this subsection continue to meet the standards of accreditation, the Secretary shall—

''(I) audit the performance of such entities on a periodic basis through the review of inspection reports and inspections by the Secretary to evaluate the compliance status of a

domestic facility or foreign facility and the performance of entities accredited under this subsection; and

''(II) take such additional measures as the Secretary determines to be appropriate.

''(ii) WITHDRAWAL.—

''(I) IN GENERAL.—The Secretary may withdraw accreditation of an entity accredited under this subsection, after providing notice and an opportunity for an informal hearing, if—

''(aa) such entity is substantially not in compliance with the standards of accreditation;

''(bb) such entity poses a threat to public health;

''(cc) such entity fails to act in a manner that is consistent with the purposes of this subsection; or

''(dd) the Secretary determines that there is a financial conflict of interest in the relationship between such entity and the owner or operator of a domestic facility or foreign facility that the entity has inspected under this subsection.

''(II) SUSPENSION.—The Secretary may suspend accreditation of an entity during the pendency of the process under subclause (I).

''(iii) DEBARMENT.—If the Secretary determines that an entity accredited under this subsection has violated section 301(y), the Secretary—

''(I) shall withdraw such entity's accreditation under this subsection; and

''(II) may permanently debar a responsible person for such entity from being accredited and from carrying out inspection activities under this subsection.

''(6) FEES.—An entity accredited under this subsection may charge a domestic facility or foreign facility reasonable fees for inspection services.

''(7) SYMBOL INDICATING INSPECTION BY AN ACCREDITED ENTITY.—The Secretary may by regulation establish one or more tamper-resistant symbols indicating that an article of food was produced in a domestic or foreign facility that passed an accredited third party inspection. Such a symbol may be affixed on the packaging of such an article.

''(8) ELECTRONIC IMPORT CERTIFICATES.—If the standards, processes, and criteria to certify articles of food used by a foreign regulatory authority of an exporting country or an entity accredited under this subsection are sufficient to ensure compliance with this Act, the Secretary shall enter into agreements with such regulatory authority or such accredited entity to electronically certify each food shipment or class of shipments of designated food for compliance with this Act prior to shipment. Such agreements shall include provision of electronic certificates from such regulatory authority or such accredited entity to accompany each shipment. The Secretary shall provide criteria for such certificates to ensure a secure system that prevents counterfeiting of the certificates and takes into consideration possible transshipment of products as a way to avoid certification.

''(9) CONSIDERATION.—Notwithstanding any other provision of law, the Secretary shall consider inspections performed by accredited entities under this subsection, as well as other private food safety contracts, when determining the overall inspection schedule of the Food and Drug Administration in order to focus on higher-risk facilities.''.

(b) PROHIBITED ACTS.—Section 301(y) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(y)) is amended—

(1) in paragraph (1), by inserting ''or an entity accredited under section 704(h)'' after ''523'';

(2) in paragraph (2)—

(A) by inserting ''or an entity accredited under section 704(h)'' after ''523''; and

(B) by inserting ''or entity'' after ''such person''; and

(3) in paragraph (3)—

(A) by inserting ''or an entity accredited under section 704(h)'' after ''523'';

(B) by inserting ''or entity'' after ''by such person''; and

(C) by inserting ''or entity'' after ''to such person''.

SEC. 10. ENTRY OF FOOD FROM FACILITIES INSPECTED BY AN ACCREDITED THIRD PARTY.

Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by adding at the end the following:

''(p) ENTRY OF FOOD FROM FACILITIES INSPECTED BY AN ACCREDITED THIRD PARTY.—If an article of food is being imported or offered for import at a port of entry into the United States and such article of food is from a foreign facility at which an inspection by an entity accredited under section 704(h) was completed prior to the production of such article of food at such facility and—

''(1) the results of the inspection were no official action indicated, the Commissioner of Food and Drugs agrees with the results of the inspection, and such facility has a certificate described under section 704(h)(8), then the article of food shall be presumed to be admissible into the United States and shall not be detained or refused admission but shall receive permission for expedited entry into the United States;

''(2) the results of the inspection were voluntary action indicated and the Commissioner of Food and Drugs agrees with the results of the inspection, then the article of food shall be subject to increased random inspection at the border; or

''(3) the results of the inspection were official action indicated and the Commissioner of Food and Drugs agrees with the results of the inspection, then the article of food shall—

''(A) be—

''(i) held at the port of entry for the article without physical examination and refused admission if the inspection failure was due to a condition presenting a reasonable probability that the use of or exposure to the article of food will cause serious adverse health consequences or death; or

''(ii) placed on import alert if the inspection failure was due to a condition in which use of or exposure to the article of food may cause temporary or medically reversible adverse health consequences or where the probability of serious adverse health consequences is remote; and

''(B) be subject to other actions as provided under this Act.''.

SEC. 11. ACTIVITIES WITH OTHER GOVERNMENTS.

(a) MEETINGS AND AGREEMENTS.—

(1) IN GENERAL.—In carrying out the functions of the Office of International Programs of the Food and Drug Administration, the Secretary of Health and Human Services (referred to in this section as the ''Secretary'')—

(A) shall regularly participate in meetings with representatives of foreign governments to discuss and reach agreement on methods and approaches to harmonize regulatory requirements; and

(B) may enter into an agreement with a foreign entity to facilitate commerce in food between the United States and such entity—

(i) consistent with the requirements of this Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); and

(ii) in which the Secretary shall encourage the mutual development and recognition of—

(I) good manufacturing practice regulations; and

(II) other regulations and testing protocols as the Secretary determines to be appropriate.

(2) JOINT INSPECTION.—An agreement entered into pursuant to paragraph (1)(B) may include joint inspection missions where an inspection team is composed of individuals from regulatory authorities of both countries.

(b) REDUCTION OF REGULATION BURDEN AND HARMONIZATION OF FOOD REGULATORY REQUIREMENTS.—The Secretary shall support the Office of the United States Trade Representative, in consultation with the Secretary of Commerce, in meetings with representatives of foreign governments to discuss methods and approaches to reduce the burden of regulation and harmonize food regulatory requirements if the Secretary determines that such harmonization continues consumer protections consistent with the purposes of this Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 12. COMPLIANCE WITH INTERNATIONAL AGREEMENTS.

Nothing in this Act (or an amendment made by this Act) shall be construed in a manner inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

SA 4697. Mr. COBURN (for himself, Mrs. MCCASKILL, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. FISCAL YEARS 2011 THROUGH 2013 EARMARK MORATORIUM.

(a) BILLS AND JOINT RESOLUTIONS.—

(1) POINT OF ORDER.—It shall not be in order to—

(A) consider a bill or joint resolution reported by any committee or a bill or joint resolution reported by any committee with a report that includes an earmark, limited tax benefit, or limited tariff benefit; or

(B) a Senate bill or joint resolution not reported by committee that includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the bill or joint resolution shall be returned to the calendar until compliance with this subsection has been achieved.

(b) CONFERENCE REPORT.—

(1) POINT OF ORDER.—It shall not be in order to vote on the adoption of a report of a committee of conference if the report includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the conference report shall be returned to the calendar.

(c) FLOOR AMENDMENT.—It shall not be in order to consider an amendment to a bill or joint resolution if the amendment contains an earmark, limited tax benefit, or limited tariff benefit.

(d) AMENDMENT BETWEEN THE HOUSES.—

(1) IN GENERAL.—It shall not be in order to consider an amendment between the Houses if that amendment includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the amendment between the Houses shall be returned to the calendar until compliance with this subsection has been achieved.

(e) WAIVER.—Any Senator may move to waive any or all points of order under this section by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(f) DEFINITIONS.—For the purpose of this section—

(1) the term ''earmark'' means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

(2) the term ''limited tax benefit'' means any revenue provision that—

(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; and

(3) the term ''limited tariff benefit'' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

(g) FISCAL YEARS 2011 THROUGH 2013.—The point of order under this section shall only apply to legislation providing or authorizing discretionary budget authority, credit authority or other spending authority, providing a federal tax deduction, credit, or exclusion, or modifying the Harmonized Tariff Schedule in fiscal years 2011 through 2013.

(h) APPLICATION.—This rule shall not apply to any authorization of appropriations to a Federal entity if such authorization is not specifically targeted to a State, locality, or congressional district.

SA 4698. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

On page 222, between lines 4 and 5, insert the following:

SEC. 212. REPORT ON FOOD FRAUD.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Commissioner of Food and Drugs shall prepare and submit to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Health, Education, Labor, and Pensions, the Committee on Commerce, and the Committee on Appropriations of the Senate and to the Committee on Energy and Commerce, the Committee on Agriculture, and the Committee on Appropriations of the House of Representatives a written report on food fraud.

(b) CONTENTS OF REPORT.—The report described in subsection (a) shall include—

(1) a list of food fraud complaints filed with the Food and Drug Administration;

(2) a list of food fraud investigations conducted by the Food and Drug Administration;

(3) penalties for food fraud assessed by the Food and Drug Administration;

(4) resources of the Food and Drug Administration that are used to combat food fraud, including staffing and equipment;

(5) field reports of food fraud investigations conducted by the Food and Drug Administration; and

(6) recommendations of resources the Food and Drug Administration could use to combat food fraud.

(c) FOOD FRAUD DEFINITION.—For purposes of this section, the term ''food fraud'' means an act of producing a food product designed for human consumption that is intentionally mislabeled, adulterated, or otherwise not of the nature, substance, or quality expected by consumers.

SA 4699. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

On page 222, between lines 4 and 5, insert the following:

SEC. 212. FOOD FRAUD INVESTIGATION TASK FORCE.

Chapter IV (21 U.S.C. 341 et seq.), as amended by section 207, is further amended by adding at the end the following:

''SEC. 424. FOOD FRAUD INVESTIGATION TASK FORCE.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a Food Fraud Investigation Task Force (referred to in this section as the 'Task Force'), headed by the Commissioner, to investigate suspected cases of food fraud.

''(b) TASK FORCE INVESTIGATIVE AUTHORITY AND DUTIES.—The duties of the Task Force shall include—

''(1) developing and maintaining a toll-free telephone hotline and a reporting form on the Internet website of the Food and Drug Administration for individuals to report suspected cases of food fraud to the Secretary;

''(2) establishing a rapid response investigation team to investigate suspected cases of food fraud reported to the Secretary; and

''(3) establishing a surveillance program to randomly inspect food in the marketplace in order to identify cases of food fraud.

''(c) CONSULTATION.—In carrying out this section, the Task Force shall consult with the Secretary of Agriculture and the heads of relevant agencies and offices within the Department of Agriculture.

''(d) CONSIDERATIONS.—In carrying out the duties under this section, the Task Force shall consider—

''(1) the use of DNA testing equipment, isotope ratio testing equipment, and other devices to accurately detect instances of food fraud; and

''(2) partnering with third parties to assist in the detection of food fraud.

''(e) BIENNIAL REPORTING.—The Task Force shall prepare and submit to the Committee on Health, Education, Labor, and Pensions, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations of the Senate and the Committee on Agriculture, the Committee on Appropriations, and the Committee on Energy and Commerce of the House of Representatives a biennial report containing findings by the Task Force with respect to food fraud and recommendations on how to combat food fraud in the marketplace.

''(f) FOOD FRAUD.—For purposes of this section, the term 'food fraud' means an act of producing a food product designed for human consumption that is intentionally mislabeled, adulterated, or otherwise not of the nature, substance, or quality expected by consumers.''.

SA 4700. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. ___. SENSE OF THE SENATE ON CATFISH FOOD SAFETY.

(a) IN GENERAL.—It is the sense of the Senate that—

(1) Congress enacted section 11016 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2130) and the amendments made by that section to improve catfish inspection following multiple discoveries of banned substances;

(2) subsection (b) of that section includes amendments that require the Secretary of Agriculture to provide inspection activities under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) for farm-raised catfish, by adding catfish to the list of amenable species (as that term is defined in section 1 of that Act (21 U.S.C. 601));

(3) it is imperative that the Secretary of Agriculture and the Director of the Office of Management and Budget implement those amendments to improve food safety procedures and protect consumers in the United States; and

(4) the Secretary of Agriculture and the Director of the Office of Management and Budget should promulgate regulations to complete implementation of section 11016 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2130) and the amendments made by that section.

(b) RELATIONSHIP TO OTHER ACTIVITIES.—In establishing the grading and inspection program for catfish in accordance with the amendments made by section 11016 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2130), the Secretary of Agriculture shall ensure that the program does not duplicate, impede, or undermine any food safety or product grading activity conducted by the Secretary of Commerce or the Commissioner of Food and Drugs.

SA 4701. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. ___. SENSE OF THE SENATE ON FOOD, CONSERVATION, AND ENERGY ACT OF 2008.

It is the sense of the Senate that—

(1) the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8701 et seq.) was enacted on June 18, 2008, and it is critical that action be taken to fully implement that Act and the amendments made by that Act; and

(2) the Director of the Office of Management and Budget should promulgate any remaining regulations relating to food safety and inspection that are necessary to complete implementation of that Act and the amendments made by that Act.

SA 4702. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 510, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE V—SMALL BUSINESS PAPERWORK REDUCTION

SEC. 501. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS.

Section 9006 of the Patient Protection and Affordable Care Act, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

SEC. 502. RESCISSION OF UNSPENT FEDERAL FUNDS TO OFFSET LOSS IN REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated funds, $39,000,000,000 in appropriated discretionary funds are hereby permanently rescinded.

(b) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify from which appropriation accounts the rescission under subsection (a) shall apply and the amount of such rescission that shall apply to each such account. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under the preceding sentence.

(c) EXCEPTION.—This section shall not apply to the unobligated funds of the Department of Defense or the Department of Veterans Affairs.

SA 4703. Mr. NELSON of Nebraska (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 904. MEMBERSHIP OF CHIEF OF THE NATIONAL GUARD BUREAU ON THE JOINT CHIEFS OF STAFF.

(a) IN GENERAL.—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 is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

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

SA 4704. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. WEEKLY INCREASE IN THE REWARD FOR CAPTURE OF OSAMA BIN LADEN.

(a) FINDING.—Congress finds that a foremost objective of United States counterterrorism policy should be protecting United States persons and property by capturing or killing Osama bin Laden, and other leaders of the al Qaeda network, and by destroying the al Qaeda network.

(b) WEEKLY INCREASE IN REWARD.—Section 36(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(e)(1)) is amended by adding at the end the following new sentence: ''The amount of the reward under the previous sentence shall be increased by $1,000,000 every seven days after the date of the enactment of this sentence until September 30, 2015.''.

SA 4705. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle J of title V, add the following:

SEC. 594. DEFERRAL OF DEPLOYMENT OF MEMBERS OF THE ARMED FORCES WHO GIVE BIRTH TO A CHILD.

(a) DEFERRAL.—A member of the Armed Forces who gives birth to a child may not be deployed or otherwise temporarily assigned to a location away from the permanent duty station or homeport of the member during such period beginning on the date of birth as the Secretary of the military department concerned shall specify with respect to the member.

(b) MINIMUM PERIOD.—The minimum period specified with respect to a member under subsection (a) shall be six months.

(c) WAIVER OF DEFERRAL BY MEMBER.—A member may waive a deferral of deployment or assignment under subsection (a), in whole or in part.

(d) WAIVER OF APPLICABILITY OF DEFERRAL.—The Secretary of Defense may waive the applicability of subsection (a) to a member otherwise covered by that subsection if the Secretary determines that the waiver is in the national security interests of the United States. Waivers under this subsection shall be made on a case-by-case basis.

(e) REGULATIONS.—This section shall be administered in accordance with regulations prescribed by the Secretary of Defense. Such regulations shall, to the extent practicable, apply uniformly across the Armed Forces.

(f) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act, and shall apply with respect to members of the Armed Forces who give birth on or after that date.

SA 4706. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 548, between lines 10 and 11, insert the following:

(h) REPAYMENT OF FUNDS PROVIDED.—

(1) FINDINGS.—Congress makes the following findings:

(A) The Iraq Security Forces Fund (ISSF) is intended to provide funding in areas where the United States is in a position to make a unique contribution to Iraqi security.

(B) Starting in 2008, Congress called for Government of Iraq to increase the level it financed its own security forces in light of increases in oil revenues and unspent funds.

(C) Iraq has an available surplus of $11,800,000,000, according to a September 2010 report by the Government Accountability Office. The report, entitled ''Iraqi-U.S. Cost Sharing'', projected a budget surplus of $52,100,000,000 through the end of 2009, with estimated outstanding advances of $40,300,000,000.

(D) In addition, the security ministries of Iraq did not use between $2,500,000,000 and $5,200,000,000 of their budgeted funds from 2005 through 2009, which could have been used to address security needs, according to the same Government Accountability Office report.

(E) The fiscal year 2011 budget request of the President for the Iraq Security Forces Fund was $2,000,000,000.

(F) The United States has authorized $707,000,000,000 for military operations in Iraq since 2003, of which $24,000,000,000 has been provided for training, equipment, supplies, facility construction, and other services for the Iraqi security forces.

(G) Iraq has the third largest oil reserve in the world, providing a steady source of revenue that has led to budget surpluses even during a period of global economic hardship.

(H) The Government of Iraq should assume responsibility for the costs associated with building its security forces.

(I) The United States budget deficit for fiscal 2010 is estimated at slightly less than $1,300,000,000,000 by the Congressional Budget Office, and the projected deficit for fiscal 2011 is $980,000,000,000.

(J) The United States cannot continue to fund security activities for the Government of Iraq, which now possesses the resources and ability to provide for itself.

(2) PROVISION OF ASSISTANCE AFTER FISCAL YEAR 2010 THROUGH LOANS.—United States funds made available from the Iraq Security Forces Fund after the date of the enactment of this Act shall be provided in the form of loans subject to full repayment to the Government of the United States.

(3) REPAYMENT.—The Secretary of State shall, in conjunction with the Secretary of Defense, seek to enter into negotiations with the Government of Iraq in order to enter into an agreement under which the Government of Iraq agrees to repay the United States Government the United States funds provided from the Iraq Security Forces Fund, including United States funds provided before the date of the enactment of this Act and United States funds provided as loans under paragraph (2).

(4) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall, in consultation with the Secretary of Defense, submit to Congress a report describing the status of negotiations described in paragraph (3), including any details of the repayment agreement entered into as a result of such negotiations.

SA 4707. Mr. NELSON of Nebraska (for himself, Mr. WICKER, Mr. CASEY, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 713.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, November 17, 2010, at 4 p.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEAHY. 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 November 17, 2010, at 9:30 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on November 17, 2010, at 10 a.m., in room 406 of the Dirksen Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 17, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Strengthening Medicare and Medicaid: Taking Steps to Modernize America's Health Care System.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 17, 2010, at 9:30 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on November 17, 2010.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEAHY. 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 November 17, 2010, at 10 a.m., to conduct a hearing entitled ''Securing Critical Infrastructure in the Age of Stuxnet.''

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

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 17, 2010, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Judicial and Executive Nominations.''

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

SUBCOMMITTEE ON COMMUNICATIONS, TECHNOLOGY, AND THE INTERNET

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Communications, Technology, and the Internet of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on November 17, 2010, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. DURBIN. Mr. President, I ask unanimous consent that Bill McConagha, a detailee in the Senate HELP Committee Majority Health Office, be granted floor privileges for the duration of S. 510, the FDA Food Safety Modernization Act.

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

ASIAN CARP PREVENTION AND CONTROL ACT

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 366, S. 1421.

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

The assistant editor of the Daily Digest read as follows:

A bill (S. 1421) to amend section 42 of title 18, United States Code, to prohibit the importation and shipment of certain species of carp.

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

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

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

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1421

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 ''Asian Carp Prevention and Control Act''.

SEC. 2. ADDITION OF SPECIES OF CARP TO THE LIST OF INJURIOUS SPECIES THAT ARE PROHIBITED FROM BEING IMPORTED OR SHIPPED.

Section 42(a)(1) of title 18, United States Code, is amended by inserting ''of the bighead carp of the species Hypophthalmichthys nobilis;'' after ''Dreissena polymorpha;''.

GLOBAL ENTREPRENEURSHIP WEEK/USA

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 681, submitted earlier today.

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

The assistant editor of the Daily Digest read as follows:

A resolution (S. Res. 681) designating the week of November 15 through 19, 2010, as ''Global Entrepreneurship Week/USA.''

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

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

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

The resolution (S. Res. 681) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 681

Whereas more than ½ of the companies on the 2009 Fortune 500 list were launched during a recession or bear market;

Whereas 92 percent of Americans believe that entrepreneurs are critically important to job creation and 75 percent believe that the United States cannot have a sustained economic recovery without another burst of entrepreneurial activity;

Whereas the economy and society of the United States, as well as the country as a whole, have benefitted greatly from the everyday use of breakthrough innovations developed and brought to market by entrepreneurs;

Whereas Global Entrepreneurship Week is an initiative aimed at inspiring young people to embrace innovation and creativity;

Whereas Global Entrepreneurship Week helps the next generation of entrepreneurs to acquire the knowledge, skills, and networks needed to create vibrant enterprises that will improve the lives and communities of the entrepreneurs;

Whereas, in 2009, more than 160,000 individuals participated in the more than 2,300 entrepreneurial activities held worldwide during Global Entrepreneurship Week;

Whereas, in 2009, more than 1,100 partner organizations participated in Global Entrepreneurship Week, including chambers of commerce, institutions of higher education, high schools, businesses, and State and local governments; and

Whereas, in 2010, thousands of organizations in the United States will join in the celebration by planning activities designed to inspire, connect, inform, mentor, and engage the next generation of entrepreneurs throughout Global Entrepreneurship Week/USA: Now, therefore, be it