

TABLE 2.—SUPPORTING DETAIL FOR THE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2010, AS OF JULY 31, 2009—Continued

(In millions of dollars)

	Budget authority	Outlays	Revenues
Appropriation legislation .....	0	600,500	n.a.
Offsetting receipts .....	-690,251	-690,251	n.a.
Total, previously enacted .....	947,172	1,531,924	1,665,986
Enacted this session:			
Helping Families Save Their Homes Act of 2009 (P.L. 111-22) .....	318	11,346	0
An act to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products . . . and for other purposes (P.L. 111-31) .....	10	13	46
Supplemental Appropriations Act, 2009 (P.L. 111-32) <sup>2</sup> .....	11	33,530	0
An act to make technical corrections to the Higher Education Act of 1965, and for other purposes (P.L. 111-39) .....	32	36	0
A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes (P.L. 111-42) .....	0	0	6,862
Total, enacted this session .....	371	44,925	6,908
Passed, pending signature:			
An act to authorize the Director of the United States Patent and Trademark Office to use funds . . . and for other purposes (H.R. 3114) .....	0	65	0
Judicial Survivors Protection Act of 2009 (S. 1107) .....	-1	-1	0
Total, passed, pending signature .....	-1	64	0
Entitlements and mandates:			
Budget resolution estimates of appropriated entitlements and other mandatory programs .....	728,688	706,384	0
Total Current Level <sup>2, 3, 4</sup> .....	1,676,230	2,283,297	1,672,894
Total Budget Resolution <sup>5</sup> .....	2,892,499	3,004,533	1,653,728
Adjustment to the budget resolution for disaster allowance <sup>6</sup> .....	-10,350	-5,448	n.a.
Adjusted Budget Resolution .....	2,882,149	2,999,085	1,653,728
Current Level Over Budget Resolution .....	n.a.	n.a.	19,166
Current Level Under Budget Resolution .....	1,203,919	715,788	n.a.

<sup>1</sup> Includes the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3), the American Recovery and Reinvestment Act (ARRA) (P.L. 111-5), and the Omnibus Appropriations Act, 2009 (P.L. 111-8), which were enacted by the Congress during this session, before the adoption of S. Con. Res. 13, the Concurrent Resolution on the Budget for Fiscal Year 2010. Although the ARRA was designated as an emergency requirement, it is now included as part of the current level amounts.

<sup>2</sup> Pursuant to section 403 of S. Con. Res. 13, provisions designated as emergency requirements (and rescissions of provisions previously designated as emergency requirements) are exempt from enforcement of the budget resolution. The amounts so designated for fiscal year 2010, which are not included in the current level totals, are as follows:

	Budget authority	Outlays	Revenues
Supplemental Appropriations Act, 2009 (P.L. 111-32) .....	17	7,064	-2

<sup>3</sup> For purposes of enforcing section 311 of the Congressional Budget Act in the Senate, the budget resolution does not include budget authority, outlays, or revenues for off-budget amounts. As a result, current level excludes these items.

<sup>4</sup> The scoring for H.R. 3357, an act to restore the Highway Trust Fund, and for other purposes, does not change current level totals. H.R. 3357 appropriated \$7 billion to the Highway Trust Fund. The enactment of this bill followed an announcement by the Secretary of Transportation on June 24, 2009, of an interim policy to slow down payments to states from the Highway Trust Fund. The Congressional Budget Office estimates that H.R. 3357 will reverse this policy and restore payments to states at levels already assumed in current level. Thus, no change is required.

<sup>5</sup> Periodically, the Senate Committee on the Budget revises the totals in S. Con. Res. 13, pursuant to various provisions of the resolution:

	Budget authority	Outlays	Revenues
Original Budget Resolution Totals .....	2,888,691	3,001,311	1,653,682
Revisions:			
For the Supplemental Appropriations Act, 2009 (section 401(c)(4)) .....	5	2,004	0
For an act to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products . . . and for other purposes (sections 311(a) and 307) .....	0	0	40
For the Congressional Budget Office's reestimate of the President's request for discretionary appropriations (section 401(c)(5)) .....	3,766	2,355	0
For further revisions to a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products . . . and for other purposes (sections 311(a) and 307) .....	10	13	6
For further revisions to the Supplemental Appropriations Act, 2009 (section 401(c)(4)) .....	6	-1,175	0
For an act to make technical corrections to the Higher Education Act of 1965, and for other purposes (section 303) .....	32	36	0
For further revisions to the Supplemental Appropriations Act, 2009 (section 401(c)(4)) .....	-11	-11	0
Revised Budget Resolution Totals .....	2,892,499	3,004,533	1,653,728

<sup>6</sup> S. Con. Res. 13 includes \$10,350 million in budget authority and \$5,448 million in outlays as a disaster allowance to recognize the potential cost of disasters; those funds will never be allocated to a committee. At the direction of the Senate Committee on the Budget, the budget resolution totals have been revised to exclude those amounts for purposes of enforcing current level.

SOURCE: Congressional Budget Office.  
Note: n.a. = not applicable; P.L. = Public Law.

**MATERIAL SUPPORT AND TERRORISM BARS IN IMMIGRATION LAW**

Mr. LEAHY. Mr. President, following the attacks of September 11, 2001, Congress made dramatic changes to our immigration laws that were intended to strengthen barriers to entry to the United States for those believed to be engaged in terrorist activity. This was a laudable goal, but as with so much of the Federal Government's response to the September 11 attacks, fear overtook reason and sound judgment. Rather than limit the scope of changes to the law, Congress passed vastly overbroad revisions to the definition of terrorist activity, resulting in harm to asylum seekers and refugees. As a result, many who deserve and are otherwise eligible for protection under our laws have suffered needlessly.

The post-September 11 changes to the law expanded bars to entry for those accused of providing "material support" to terrorist organizations, or who are believed to have engaged in "terrorist activity." The new definition of terrorist organization was so broadly

written that an individual who was forced at gunpoint to provide medical or other assistance, no matter how slight, to any group of two or more people acting against the law of their country, are considered to have materially supported a terrorist organization. As a result, those who bravely fought repressive governments in their home countries, and those who joined the United States in opposing despots, can now be called terrorists and barred from protection in our Nation.

I have worked for years to restore common sense to the bars in our immigration laws that apply to material support for terrorism. Unfortunately, as a result of the previous administration's inaction, and slow progress within the new administration, these laws remain a stain on the reputation of the United States as a leader in the cause of human rights. The time to end the terrible consequences of these laws is long overdue.

I called upon the previous administration to exert leadership in solving the longstanding problems associated with these restrictions to admission to

the United States. I worked with Senator KYL to provide the Bush-Cheney administration with the authority to implement waivers so that those deserving of our protection were not wrongly denied sanctuary in the United States. Little was done with the authority we provided.

We can and must do better. Today I renew these calls for leadership in the new administration. I call on President Obama to take the steps necessary to implement the authority granted by Congress to protect bona fide refugees and asylees.

I recognize that the waiver authority Congress provided to the executive branch resulted in some positive changes in recent months. The executive branch is granting waivers to those whose "support" under the overly broad definition of terrorist organization was provided only under duress. Some others, whose support was provided to groups exempt from the definition of terrorist organization, are also being granted protection. But that is not enough. The third tier of the law's definition of terrorist organization

continues to ensnare those deserving of our protection who pose no legitimate threat to the United States. Currently, over 7,000 individuals who were granted refugee status or asylum, and who have since petitioned the Government for lawful permanent residence, are on hold and in legal limbo because the agency has not implemented the authority granted under law. These are individuals whom our Government has already screened and deemed eligible for protection under the same set of facts now being held against them to erroneously claim that they are threats to the United States.

And in some cases, these are people that bravely stood by the United States in Iraq and elsewhere. Saman Kareem Ahmad served as a translator for the U.S. Marines in Iraq. He came to the United States on a special visa, supported by the Marine captain with whom he served, and with commendations from GEN David Petraeus. But because he had served with the Kurdish democratic party in Iraq in opposing Saddam Hussein, Mr. Ahmad was initially denied a green card because he was deemed to have been part of a terrorist organization under the law's definition. It took press reporting and congressional oversight to resolve this injustice. Such a result is at odds with our values.

As the result of legislation Senator KYL and I sponsored, and which became law, the agency was directed to establish a process for exempting certain groups from the material support bars. In practice, an individual who is granted refugee status or asylum is eligible to later petition to adjust their status to lawful permanent residence. Yet, rather than apply the exemption authority granted under law, the agency appears to assume the terrorism bars apply in many of these cases, and then holds the cases until it determines whether the individual applicants are eligible for a waiver. This is not what Congress intended. A significant percentage of the more than 7,000 pending cases are petitions from refugees or asylees who were previously admitted to the United States. They are being penalized for actions that took place prior to their admission to the United States, often for activity that was not barred at the time, and which they disclosed prior to lawful admission to our nation. These individuals should be granted a presumption of admissibility, assuming no other factors of inadmissibility apply to their cases.

Equally troubling is the effect of agency inaction on individuals in removal proceedings. Asylum seekers in removal proceedings are not considered for a waiver of the terrorism-related bars unless and until a final order of removal is issued. This inefficient system forces asylum seekers to engage in a lengthy appeals process if they believe they have a valid claim for relief. Reviewing such cases for waivers at the early stages of removal proceedings will lead to more efficient operations

within the agency and the immigration courts. It will also save genuine asylum seekers from unnecessary anguish and enable them to more quickly integrate into American society.

I intend to work in earnest with the Obama administration to solve this problem once and for all. If the executive branch is unwilling or unable to make the needed administrative changes to policy, then I will introduce legislation once again. Should legislation be necessary, I expect the administration and the agencies to work with me in a constructive manner to restore common sense and fairness to our treatment of refugees and asylum seekers.

#### INTELLIGENCE INVESTIGATIONS

Mr. LIEBERMAN. Mr. President, it has now been nearly 8 years since our country was attacked on September 11, 2001, as 19 al-Qaida members hijacked four jet airplanes and crashed three of them into the World Trade Center and the Pentagon. The passengers on the fourth plane, Flight 93, learned of the other attacks, fought back against the hijackers, and heroically gave their lives to prevent that plane from reaching its target in Washington, DC. That target was probably this very building—the U.S. Capitol.

In the last 8 years, our homeland has not been attacked again. The reasons for this are many. We created a Department of Homeland Security, and we adopted reforms in our intelligence community recommended by the 9/11 Commission. We are now consistently connecting the intelligence dots that were not connected before 9/11. We have denied safe haven to terrorist organizations in Afghanistan, Iraq, and other countries around the world. And we have worked with our allies to prevent terrorist groups from gaining access to nuclear and radiological materials and to combat terrorist financing.

One of the most important reasons why we have not been attacked again in the last 8 years is the tireless work of the men and women who serve in our intelligence agencies. While the attacks of 9/11 have receded into the memory of many Americans, I assure my colleagues that is not the case for the intelligence community. They know that the threat of terrorism has not diminished and are working each day to detect and disrupt terrorist plots targeting America and our allies.

They know that the threats we face are ones that could imperil the lives of countless Americans. Just last year, the Commission on the Prevention of Weapons of Mass Destruction determined that it is “more likely than not” that a nuclear or biological weapon of mass destruction will be used against the United States in a terrorist attack within the next five years. Should a nuclear device detonate in an American city, it could instantly kill hundreds of thousands of people and render the city uninhabitable for years.

This is a devastating possibility that America faces every day and agents are working to prevent every second of every day.

For all of these reasons, I believe we have a responsibility to give our intelligence agencies and agents the resources and tools they need, as well as the respect and appreciation they have earned.

What we should not do is go backwards by investigating intelligence officials who served us on the front lines of this ongoing war on terrorism and acted within legal guidance they were given.

Attorney General Holder is still considering an investigation into CIA interrogators and contract employees. I fear that such an investigation could very well foster a climate of political recriminations and sap the morale of the intelligence community. Those near certain results would no doubt leave our country less safe.

President Obama had it right when he said that with regard to past behavior by the intelligence community, he is “more interested in looking forward . . . than looking backward.” Given the threats that we face as a nation, it is imperative that we follow the President's lead.

With regard to the treatment of detainees now in U.S. custody, the President has been clear. The Executive order he signed on January 22 of this past year requires that all detainees in U.S. custody “shall in all circumstances be treated humanely and shall not be subjected to violence to life and person” and that all interrogations carried out by the U.S. Government, whether by the military, the CIA, the FBI or any other government entity, shall comply with the Army Field Manual. The President's Executive order is consistent with the Detainee Treatment Act as well as the Convention Against Torture and Common Article 3 of the Geneva Conventions. Given that such policy changes have already been made, I can see no benefit from new investigations of intelligence officials, especially those who were doing what they thought was appropriate and necessary to keep us safe.

The 9/11 Commission did a positive and constructive investigation of past events that needed to be understood so that we did not repeat the mistakes that made that horrific day possible. The commission investigated the activities of agencies such as the CIA and FBI in the years and months prior to the attacks of 9/11, and was unsparing in pointing out where those agencies had missed opportunities to disrupt the plot. As a result of the commission's recommendations, we established the Director of National Intelligence and the National Counterterrorism Center, improved sharing of intelligence information, and strengthened our watchlisting and visa issuance systems. All of these initiatives make the United States safer today against the threat of terrorism.