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Senate

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by the Reverend Joe Bates, Sr., from the Northwest Conference of the United Methodist Church of Alabama.

The guest Chaplain offered the following prayer:

Let us pray.

Eternal God, Father of all humankind, we come before You with humble hearts to ask for Your blessings and guidance.

Pour out Your wisdom and discernment upon these elected representatives of Your people, and fill their hearts with peace and good will. Enable them, we pray, to practice just and merciful leadership that will bless and enhance the lives of all of our citizens.

We thank You, O God, for all the ways You have led us in the past. Bless us this day by helping us to walk in Your path of righteousness so that justice and peace may prevail in our Nation and in our world.

To You, dear God, we give our honor and our praise, even as we seek Your mercy, and we pray to You in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 10, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following any leader remarks, there will be a period of morning business until 2:15 p.m. today, with Senators permitted to speak for up to 10 minutes. At 10:30, Senator MORAN will be recognized to speak for up to 15 minutes to deliver his maiden speech to the Senate. At 2:15 p.m., the Senate will proceed to executive session to consider the nomination of Max Oliver Cogburn, Jr., of North Carolina, to be U.S. District Judge for the Western District of North Carolina.

UNANIMOUS CONSENT AGREEMENT

Mr. President, I ask unanimous consent that there be a total of 45 minutes for debate on the nomination, with the provisions of the previous order remaining in effect, and that the vote on confirmation of the nomination occur at 3 p.m. today rather than at 2:30.

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

Mr. REID. As a result of the agreement just entered, there will be a vote on confirmation of the Cogburn nomination at 3 p.m. today.

Further, the Senate Small Business Committee reported S. 493, the SBIR and STTR Reauthorization Act of 2011. They did that yesterday, and we hope to begin consideration of that bill early next week.

ACTING TO STRENGTHEN THE ECONOMY

Mr. REID. Mr. President, it is time once again for us to get down to business. Yesterday's budget votes didn't bring us any closer to a conclusion, but it did bring to our minds a lesson, and it does that very clearly. That lesson is that one party alone will not reach a resolution without the other's cooperation and consent.

We voted on the Republican budget proposal and on the Democratic budget proposal. Neither plan came close to the 60 votes needed to pass or even the 51 votes which would represent a majority of the Senate. But the exercise wasn't in vain. We have demonstrated publicly and on the record that we know the answer lies somewhere in the middle. Now it is time to find that answer in a budget that will reflect our values, keep the country running, and create jobs.

I can speak only for my caucus when I say we accept the lessons of yesterday's vote. We know we will have to make sacrifices to reach consensus, and we are willing to do that. Republicans have to be willing to move their position also. Perhaps they are willing to finally acknowledge that, given our deep debt, we can't afford government giveaways to millionaires and oil companies making record profits. Both acknowledgments would help close the deficit gap. Both would be big pieces to the puzzle.

Perhaps Republicans are willing to offer more reasonable cuts that the Democratic caucus can support. By reasonable cuts, I mean cuts that don't

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

arbitrarily kick Head Start students out of class or rob college students of their Pell grants—both cuts resoundingly rejected yesterday—and I mean cuts that don't pull the plug on renewable energy jobs or cuts that fire thousands of workers at community health centers across the country. Republicans should be willing to look at our country's substantial budget and find cuts more worthy than those that would weaken law enforcement and border security to keep us safe. I hope they will.

I hope they will join Democrats in saving money by attacking waste, fraud, and abuse. I hope they will join us in making tough choices and avoiding the temptation to make counterproductive cuts. Let's come together to cut in a way that strengthens our economy and doesn't weaken our economy. Let's cut in a way that makes our neighborhoods, our schools, and our borders stronger, not weaker.

As the negotiation process begins anew, I remind my Republican friends that time is short. I also remind them that the deadline we face—a week from tomorrow—is the deadline they set. We didn't set it. Democrats warned from the start that the process would take a month. Republicans would agree only to a period half as long as that—2 weeks. Those 2 weeks are up, as I said, next Friday.

So my message is this to my Republican colleagues: You set the deadline, and the responsibility of meeting it is as much yours as it is ours. Both parties also share a responsibility to be reasonable. So let's get to work. We cannot negotiate this in the media. We cannot negotiate this if we are unwilling to give any ground. We cannot be stubborn and expect a solution. It is time to negotiate in good faith, it is time for all political posturing to end, and it is time for pragmatism, which is long overdue.

I would also say to my friends in the House that the Senate has produced two very strong jobs bills. One is the FAA reauthorization, which is long overdue. That was a bipartisan bill. It passed overwhelmingly here in the Senate and would save or create 280,000 jobs—a pretty good step in the right direction. Just in the last 24 hours, we passed the patent reform bill. That will create 300,000 jobs. These two jobs bills need to be completed by the House of Representatives so we can send them to the President. These two jobs bills are important. The House should focus on jobs, not these arbitrary cuts they have been making. So I hope the House would right away work on the jobs bills that have already passed the Senate—patents and, of course, the FAA bill.

RECOGNITION OF THE MINORITY LEADER

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

DOMESTIC ENERGY

Mr. MCCONNELL. Mr. President, throughout the week I have pointed out that our Nation faces a day of reckoning on entitlements such as Social Security and Medicare, and I have expressed my disappointment about the White House's failure to lead on reforms that would save these programs at an opportune moment like our own.

The best time to solve the kind of fiscal crisis we face is when the two parties share power in Washington. Everyone knows we either address these problems together or they won't be addressed at all. Everyone knows the President has to take the lead. That is why Presidents from both parties have done just that during periods of divided government in the past. That is why many of us are calling on this President to do the same for the good of the country now.

But when it comes to job creation, the President isn't just failing to lead; in many cases, he is actually blocking the way. Nowhere is this more evident than in the area of energy exploration.

Americans looking at the price of gas at the pump these days are justifiably upset. What they may not realize is that some in the administration are actively working to prevent us from increasing our own oil production here at home. So this morning, with gas prices on the rise, I would like to step back for a minute and quickly review what the administration is doing to inhibit energy production right here at home. Taken together, it would be a pretty long list, including delays and suspensions and revocations and outright cancellations of lease permits, which translates into higher prices and fewer American jobs. So I will just list a few of the highlights.

The administration started by canceling oil and gas leases for domestic exploration. Immediately after taking office, the Secretary of the Interior, Ken Salazar, canceled 77 oil and gas leases in the State of Utah. One year later, the administration suspended 61 more leases, this time in Montana. Shortly after canceling the Utah leases, Secretary Salazar extended the public comment period to renew offshore drilling by another 6 months, dragging out an already lengthy process even further.

Then, immediately after the gulf oil-spill began last April, the administration imposed a 6-month moratorium on offshore drilling in the gulf even as it canceled energy exploration that was set to take place thousands of miles away from the spill in the gulf up in the Arctic. Two Federal courts on three separate occasions have declared the moratorium in the gulf unjust. The administration has ignored them. It has kept the ban in place despite these rulings, forcing the drillers who have been affected by it to relocate their rigs—and the thousands of good-paying jobs they supported—to other parts of the world.

So if one is wondering where the jobs are, a good place to start is the administration's efforts to block American energy exploration. Senator MURKOWSKI points out that U.S. oil reserves at just three sources in Alaska—just three sources in Alaska—could replace crude oil imports from the Persian Gulf for nearly 65 years. Three sources in Alaska, currently shut down, could replace crude oil imports from the Persian Gulf for 65 years. Yet all three are off limits due to decisions made by or continued by this administration.

Behind all these actions is a complete disconnect. At a time when gas prices are climbing higher and higher, pinching pocketbooks and threatening an economic recovery, Democrats in Washington would rather ignore the fact that Americans will remain dependent on fossil fuel for decades to come. But we shouldn't be surprised by it. Two months before the President was elected, the man he ended up choosing as his Energy Secretary told a reporter how he would go about reducing America's dependence on oil. He said: ''Somehow, we have to figure out how to boost the price of gasoline to the levels in Europe.'' And if that was the strategy, Secretary Chu seems to be getting his wish. And the administration is doing just about everything it can to keep them there.

Now is the time to be asking what we can do to increase domestic energy production, not proposing ways to squeeze American families even more. That is why all of these actions by the administration, along with the tax hike on energy production some have proposed that will only be passed on to consumers in the form of even higher gas prices, are the very last thing Americans need right now. We should be looking for ways to lighten the burden on American families, not saddling them with a minivan tax.

There is a better approach. Rather than squeezing the public and killing jobs with artificially higher prices, we should be looking for ways to increase domestic production even as we promote alternative sources of energy for the future. An all-of-the-above approach to energy production—and the jobs that come with it—of the kind Republicans have been advocating for years would capitalize on the abundant resources we already have right here at home while at the same time looking for alternative sources of energy and new technologies that will free us from dependence on fossil fuels down the road.

This is a responsible approach. It protects existing jobs and creates new jobs at a time when Americans need them. It would reduce our dependence on foreign sources of oil. It honors the concerns Americans have right now about the rising price of gas, and it respects the reality that most of the cars in this country will run on gas for many years to come. But higher prices at the pump and fewer American jobs is the wrong answer.

TRIBUTE TO DAVID BRODER

Mr. MCCONNELL. Mr. President, sadly, we lost David Broder yesterday. A lot has been said in the last 24 hours about that distinguished journalist. I wish to add just a brief word of my own.

I will not pretend to have known him well, although we did talk from time to time over the years. I admired him greatly. One could not help but admire him, and a few things truly stand out. First of all, in a city that is full of people in a rush to make an impression, David was the guy who took the time to get it right, day in and day out, without bombast or pretense.

He wasn't looking to make an impression as much as he was trying to do his job and to do it well. The notoriety, of course, took care of itself. He was a workhorse first and foremost—a reporter who seemed to enjoy the work more than any attention he got for it.

Everyone who ever worked with him seems to have a story about watching him knocking on doors while he was in his late seventies or earnestly listening to a Midwest voter out in the cold. It all points to a sort of sturdiness of purpose and to the old virtues of patience, fairness and hard work and a sense that other people's opinions were at least as valuable as his own.

Add to that a deep curiosity and thoughtfulness and a childlike appreciation for the mechanics of democracy, and we have a pretty good model for what political reporting is all about.

I hesitate to say he was conservative in temperament, if not in his politics, but that is what came through.

It became commonplace to say David Broder was the dean of American political reporters. But I think it is worth understanding what people meant by that. It doesn't mean he was the most exciting guy in the room—he wasn't. It doesn't mean he had the most scoops—I am not sure he did. I think what it means, aside from the sheer length of his career, was that more than most people, his life came to take the shape of the profession he chose in life. It became sort of an extension of himself.

That is what seemed to give him so much joy and satisfaction in his work, along with the respect and admiration and maybe even a little bit of envy of so many others.

Republican or Democrat, liberal or conservative, young or old, we could use a few more David Broders.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 2:15 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Oklahoma is recognized.

ENERGY

Mr. INHOFE. Mr. President, I was hoping to have a little bit more time, so I will cover this a little faster than I normally would. It is so critical.

I just got back from the Middle East, and I know the problems that are over there. A lot of people are saying the gas prices that are going up are a result, partially, of what is happening over there, but the real problem is a political problem.

First of all, let me talk about the commitment this administration has to cap and trade. Some people who have been around for a while can remember that way back at the Kyoto treaty I kind of led the opposition to ratifying that treaty. Later on—for the next 10 years—they tried to pass cap-and-trade legislation. Since I chaired the committee of jurisdiction at that time, we thought this was not going to work, even by the admission of the EPA. If we were to pass something such as this in the United States, it wouldn't have any effect on reducing greenhouse gases.

I still say this. Something is happening this morning in the House. They are looking at this issue, and we have introduced legislation that has said the EPA doesn't have the jurisdiction to regulate greenhouse gases. I will get to that in a minute.

My message is simply that higher gas prices are simply a product of this administration's goal. The minority leader, a minute ago, said something. He quoted Steven Chu, the Secretary of Energy. He said: ''Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.''

In the United Kingdom, gas is $7.87 per gallon; in Italy, it is $7.54; in France, it is $7.50; in Germany, it is $7.41.

That is what this administration wants to do with gas prices. They have a motive for doing that. I cannot stop talking about the cap-and-trade agenda until we realize how it does affect things. You might remember that back during the campaign, President Obama stated in 2008—when he was running for office—and he has stated it several times: ''Under cap and trade, electricity prices would necessarily skyrocket.''

He had it right. The whole point of that is, it would skyrocket if we were to pass it. That also has an effect on all forms of energy. The House Energy and Power Subcommittee is voting this morning on the Energy Tax Prevention Act, which I introduced in the Senate, and it was introduced by Congressman UPTON in the House. The bottom line of the Energy Prevention Act is to make it so EPA doesn't have the jurisdiction to do what they could not do legislatively. Starting with the Kyoto treaty and all the way up to the following 10 years, they tried to pass—in 2003 and 2005 and 2008 and 2009—a similar type of cap and trade.

What is the cost of cap and trade? The cost would be—and this goes back to the Kyoto treaty and when we had the estimates from the Wharton School and MIT—between $300 billion and $400 billion a year. In Oklahoma, that translates to $3,000 a year for each family who files a tax return. What do we get for it? By the admission of the Obama EPA and Lisa Jackson, in response to a question I asked live on TV—I asked: What effect would this have on worldwide emissions of CO_2? The answer was it would not because that only affects the United States. In reality, it could actually increase it, as our jobs go overseas, to places such as China and Mexico and other places where there are fewer emission controls. So it could have the opposite effect.

Nonetheless, I say this because there are people wandering around out there who say we should do something about emissions. Yet I wish to make sure they are listening. Even if we did this, it would not have any effect. They hope, if we restrict enough supply, the price will increase and we can simply shift to what they call green energy.

I think it is important people understand that the Republican position on this is, yes, we want green energy, renewables, but we also want coal and natural gas and nuclear and oil. These are the products that can run America today. This is what we are doing. Back in Oklahoma, there are logical people. They ask: What would it be if they don't want oil, gas or coal? How do we run this machine called America? The answer is, we can't.

Let me state this—I don't have the time. It is not just the administration or Secretary Chu but others in the administration, such as Alan Krueger, Assistant Secretary for Economic Policy, who said: ''The administration believes that it is no longer sufficient to address our Nation's energy needs by finding more fossil fuels.''

They are antifossil fuels. They admit the tax subsidies are currently provided in the oil and gas industry, and they lead to inefficiency by encouraging overinvestment in domestic resources in this industry.

This is critical. This is an administration official, Alan Krueger: ''The small change in domestic producer costs [which I call a tax increase] could cause some production to shift from domestic to foreign suppliers.''

There it is, folks. That means we would have to depend on the Middle East—import more of our energy from the Middle East. By the way, I think it is important to note the Congressional Research Service—and I think we all respect their work—came out with a report, and they stated—and nobody has been able to refute this yet—that the United States of America now has

the largest supply of recoverable reserves in gas, oil, and coal. We keep hearing people say it is only 3 percent of the amount—we are using 25 percent of the energy and are producing just 3 percent.

That is flatly not true. I think people understand that because they use that as proven reserves. You can't prove reserves until you drill. We have the political problem that the Democrats don't want us to drill. In that case, we have to fall back on the other way of looking at it; that is, recoverable reserves. I say this: We are in a position right now to have the recoverable reserves. This chart shows these are the recoverable reserves we have right now. This is America's true oil potential. This is what we could produce. These are the proven reserves they talk about. The bottom line is, we have—and this is incontrovertible—the world's largest supply of oil, gas, and coal.

This chart shows the amount of oil, gas, and coal we have is greater than that of China, Iran, and Canada—all three put together. This is what we have here. So people say: Wait a minute. That is a problem. Then why are we importing from foreign countries? It is because we have a political problem. We have a majority in this Senate and they had a majority in the House and the President trying to continue this policy of not allowing us to develop our own resources.

We are the only country in the world that doesn't develop our own resources. I do know there are a lot of problems out there. Certainly, we have problems in the Middle East. But when I talk to my wife at home, the problem is what she is paying for gas. It is not going to get any better. How many people went to school and didn't learn about supply and demand? We have all the supply we need in America—when we add what we get from Mexico and Canada—to be independent from the Middle East. They don't let us develop it. Eighty-three percent of our Federal lands right now are off limits. It is a political problem.

I can remember when we had the oil-spill down in the gulf, some of the far left environmentalists were rejoicing that it happened. They could parlay that into not allowing us to drill for our own natural resources.

Finally, last week, the EPA issued its first permit for deepwater drilling in the gulf, due to a lot of political pressure being put on and the realization that the American people are not dumb. We can develop our own resources and resolve this problem we have. If we look at what we have right now in reserves, in terms of recoverable reserves in oil and in gas, we have enough oil right now to run this country—this is in recoverable reserves—for 90 years. Again, we have enough gas in recoverable reserves to run this country for 90 years. That is not including shale. We all know about the great shale deposits in the Western part of the United States. That is gigantic compared to what we have available to us. We also hear about methane hydrates. The reason I don't include shale and methane hydrates is because they are not recoverable today. It is not something we use today. If we lifted all restrictions, that would not give us, tomorrow, the shale reserves that are out there, nor the methane hydrates. What we would be able to do is start further developing those.

Even without them, we can run this country called America for 90 years on our own oil and gas. Then we go to coal and the significance of the oil reserves. Right now, we have 28 percent of the world's coal and, in fact, the CRS states America's recoverable coal reserves to be 262 billion short tons. For perspective, the United States only uses $1.2 billion of short tons of coal each year. So what we have is oil, gas, and coal.

The only problem is, we have an administration that, by its own admission, wants to kill oil, gas, coal, and fossil fuels. We can't do this without a change in the administration or a change in policy. I think, as you can see, when the gas prices go up—and all of America should listen—all they have to do is remember what this administration's position is, and that, as Steven Chu said—as the Secretary of Energy told the Wall Street Journal in 2008: ''Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.''

This is President Obama's position. If we take this position, we are going to have gas prices going up. You can talk around it all you want, but supply and demand is very simple. We have the potential supply to run this country for the next almost 100 years on just what we have developed.

I know the Senator from Kansas is anxious to make his statement. I yield the floor.

Mr. ROBERTS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Kansas is recognized for 15 minutes.

Mr. MORAN. Mr. President, I ask unanimous consent to speak to the Senate for up to 25 minutes.

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

AMERICA'S FISCAL HEALTH

Mr. MORAN. Mr. President, I am humbled today to deliver my initial, my very first speech on the floor of the Senate and to discuss a topic of vital importance to our country's future—our Nation's fiscal health.

It is a privilege to join the distinguished Members of this Chamber and to work alongside my friend of nearly 40 years now, Senator PAT ROBERTS. We met some time ago when I came to Washington, DC, as a summer intern in the summer of 1974 and Watergate for a Congressman named Sebelius. My colleague PAT ROBERTS was his Chief of Staff and has been my friend since.

I am also humbled to follow in the footsteps of Gov. Sam Brownback and the many who came before him and whose names are etched in this desk where I now stand. I am mindful of their service and particularly that of Senator Bob Dole who served Kansans for nearly three decades in this seat.

During nearly 36 years on Capitol Hill, Senator Dole became known as the leader who worked relentlessly to forge alliances in order to pass significant legislation. Today he serves as a role model for those who have dedicated their lives to public service. I thank Senator Dole for his call yesterday wishing me well today, but I thank him more for his distinguished service to our country and to Kansans. I know that love and respect the people of his hometown of Russell have for him. I will work to honor his legacy.

I grew up just down the road from Bob Dole's hometown in a smaller town, Plainville, a place where folks know their neighbors and look after them. Much of what I know about people I learned early in my life by working at the local hardware store, the swimming pool, the drugstore, and on my paper route. I learned there is good in every person and that satisfaction in life comes from what you do for others rather than what you do for yourself. I learned that each family's joys and sorrows are increased and diminished when they are shared with their neighbors and friends. And I learned what it means to put others first, as my mom and dad always have. I was fortunate to grow up with loving parents who taught me the value of hard work, the importance of education, and the necessity of integrity. In fact, they once made me return the 3 cents I had found when I turned in a pop bottle from my neighbor's back porch.

My dad, a World War II veteran, worked in the oilfields of western Kansas, and my mom, who grew up in the Depression, was the lady you paid your light bill to. They were my Sunday School teachers and my Boy Scout leaders, and they always encouraged me to do my best. My parents worked hard, avoided debt, paid their bills, and wanted to make sure my sister and I would have the chance to pursue our dreams.

I was also fortunate to have many teachers who instilled in me a love for learning and a desire to explore the world beyond our city limits. As a kid, I enjoyed reading about politics and history and government. People such as my fourth grade teacher Mrs. Pruter

helped me to develop an interest in our country and public service. Because of my teachers' interest in me, I am part of the first generation in our family to attend and graduate from college.

Nothing in my background would suggest I would have the opportunity to serve as a Member of the Senate. That says something about our country and the opportunity we as Americans have to dream big and to pursue those dreams. It also says something about my home State and the special way of life we lead.

The pioneering spirit of those who settled our State 150 years ago and tamed the West lives on in Kansas today. We work hard, we come together to find commonsense solutions, and try to make a difference in our communities, our State, and our Nation. We also strive to provide a better future for our kids and grandkids so they can pursue their dreams and reach their goals. This is the reason I got involved in public service, and it is the reason I remain involved today.

Since coming to Congress in 1997, I made a priority to stay connected to the Kansans I represent, so I return home on the weekends. Whether I am at the grocery store, attending church, or filling the tank with gas, the conversations I have with Kansans matter to me and impact the work I do here in Washington. When I served in the House of Representatives, I held annual townhall meetings in each of the 69 counties in my district, following the lead of my predecessor, then-Congressman PAT ROBERTS. I have continued this tradition as a Senator. I have continued this tradition as a Senator and begun traveling throughout all 105 counties in our State to hear directly from Kansans, and I am committed to making sure their voices are heard in our Nation's Capital.

Last spring in Kansas, I watched our oldest daughter walk across her college graduation stage and it was another defining moment for me. Our country is facing enormous fiscal challenges and if we fail to act, our children's future is at risk. I believe all Members of Congress, and in fact every American, has the responsibility to be a good steward of what has been passed on to us. So at that moment, that graduation event, I renewed my commitment to do my part to turn this country around.

I am one of many voices to express this concern. In 1985, President Reagan took the podium during his second inaugural address and spoke about one of his greatest concerns: our Nation's deficit spending. He told the American people that 50 years of deficit spending had finally brought our Nation to the time of reckoning. He said:

> We've come to a turning point, a moment for hard decisions. We must act now to protect future generations from government's desire to spend its citizens' money and tax them into servitude when the bills come due.

I am here today, 26 years later, to issue, unfortunately, the same warning. We are again facing a turning point in our country's history and we no longer can delay difficult decisions. When President Reagan stood and spoke those words, our national debt was $1.8 trillion. Today, that number has soared to $14 trillion—slowing our economic growth and threatening the prosperity of future generations who will have to pay for our irresponsibility.

Our government borrows 40 cents of every dollar it spends and half our national debt is held by foreigners, many who do not share our interests. The simple truth is our Nation's debt is the responsibility of several Congresses and Presidents who have allowed us to live well beyond our means for way too long. Members of both political parties have ignored this growing fiscal crisis and left it up to others in the future to deal with.

In my travels in Kansas I am often asked: How can Washington continue to spend and borrow so much? What will our country be like for our kids and grandkids? I join Kansans in voicing these concerns. In the last 2 years, government spending has grown nearly 25 percent and we have had record trillion-dollar budget deficits. This year, the Federal Government will spend $3.7 trillion and collect $2.2 trillion. That is a shortfall of $1.5 trillion. Common sense—Kansas common sense—tells us that pattern cannot continue.

Some will say we need to raise taxes to get us out of this mess. But the reality is we don't have a revenue problem, we have a spending problem. Experience shows us that money raised by Washington, DC, results in more spending in Washington, DC.

The debate about government spending is often seen as a philosophical, academic, or partisan issue, but the truth is out-of-control borrowing and spending has very real consequences on the daily lives of Americans. When we continue to fail to balance the budget, it means increasing inflation, higher interest rates, and uncertainty in the economy, which results in less business investment and fewer jobs.

This is not an academic discussion. It is not a partisan discussion. It is about the future of our Nation. We were not elected to ignore these problems but rather to confront them. Congress can and should do what Kansans do: Make decisions based on solid values and be held accountable for those decisions.

A few weeks ago, the International Monetary Fund issued a report outlining how serious our financial situation has become. America wasn't the only country that came under scrutiny by the IMF. Japan has also fallen behind in its deficit goals. To make matters worse, Standard & Poor's downgraded Japan's credit rating out of concern for the country's ability to tackle their debt. If we do not face realities and take serious steps now to confront this challenge, we will find ourselves in a similar position. The impact will be disastrous, as it has been in Greece and Portugal and Ireland.

Unfortunately, this reality has not yet sunk in in enough places here in Washington, DC. President Obama asked Congress to increase the debt ceiling—allowing our country to take on even more debt. But it would be irresponsible to allow more spending without a serious plan in place to reduce the deficit. Americans are looking for leadership in Washington to help create jobs and get our economy back on its feet. But lately, all they have heard is a lot of partisan rhetoric, and all they have seen is more government spending.

It is time for our government to change direction and to change dramatically. We must work together to restrain spending and to put in place progrowth measures that create jobs by saying both no to more spending and yes to projobs measures. By saying both no to more spending and yes to projobs measures, we will reduce the uncertainty in the marketplace, encourage business investment, become more competitive in the global economy, and—most importantly—create employment.

The best way to get our spending under control is to get a budget and stick to it. One of the basic responsibilities of Congress is to produce an annual budget, yet we are once again operating under a temporary spending measure called a continuing resolution because the Democratic leadership failed to pass a budget plan last year. Congress has taken virtually no step to address this deficit spending. We have to come together and see that we do so, and we must pass a commonsense budget that reduces our deficit this year, next year, and well into the future.

Last month, President Obama sent his 2012 budget message to Congress. Instead of moving toward fiscal responsibility, the proposal contains more of the same borrow-and-spend mentality. It proposes $8.7 trillion in new spending, $1.6 trillion in new taxes, and doubles the national debt by the end of his 4-year term. At no point during the President's 10-year budget projection would our government spend less than it is taking in.

Rather than spend more, we must close the gap between what the government takes in and what it spends. Last month, I introduced the RESET Act to rescind $45 billion in unspent stimulus funds and direct those dollars toward paying down the deficit.

Another commonsense measure I have long supported is a constitutional amendment to require a balanced budget. Unfortunately, when Members of Congress are not required to prioritize their spending, they simply borrow more over a long period of time. This proposal—this constitutional amendment—would limit Federal spending to 20 percent of gross domestic product and require a two-thirds majority of Congress to raise the taxes. By forcing Congress to be disciplined, to live within a budget, we will turn away from record deficits and back to fiscal responsibility.

In addition to living by a responsible budget, we must also address our long-term unfunded liabilities, including Social Security, Medicare, and Medicaid. Last year, mandatory spending made up 56 percent of our entire budget. This percentage will only increase in the years ahead as more Americans retire and fewer workers are there to replace them. Already, Social Security pays out more than it collects and its total debt will increase over $½ trillion in the next 10 years. Medicaid spending consumes nearly a quarter of State budgets and will further burden States that are now required to pay for the vast Medicaid expansion found in the recent health care reform law. Furthermore, Medicare's unfunded liabilities are $37 trillion. This staggering sum is nearly three times the amount of our current national debt.

This challenge cannot be ignored any longer. We must pursue change and reform, but it will take the leadership of President Obama and the willingness of both political parties. We are ready to have that conversation with the President and we expect his leadership.

Finally, history shows economic growth starts with the private sector, so Congress must create an environment where entrepreneurship and business can flourish. Small businesses are the backbone of the American economy and have generated 65 percent of the new jobs over the last two decades. They also employ half our private-sector workers. Clearly, small business is the engine of job creation and critical to our country's economic success.

As I tour plants in Kansas, business owners say: What next? What next harmful thing is Washington, DC, going to do that puts me out of business? For too long, Washington has increased the regulatory and tax burden on businesses at the expense of jobs. Mountains of government regulations and higher taxes are undercutting any efforts to create jobs and erodes our global competitiveness, especially in the manufacturing, agricultural, and energy sectors. Rather than hiring new workers, businesses are spending their resources on complying with ever-changing regulations and increased taxes or, worse, those businesses are leaving our country.

We need to be doing all we can to put people back to work and grow the economy, and that includes replacing our convoluted Tax Code and eliminating bureaucratic intrusion into our free market economy.

Maintaining a strong business environment at home must be coupled with opening new foreign markets for American goods and agricultural commodities around the world. In today's global economy, we cannot afford to sit on the sidelines while other countries move forward. Each day that passes, we risk losing more of our markets and our market share to competing nations.

Across our country, thousands of Americans depend upon exports for jobs, including more than one-fourth of all manufacturing workers in Kansas. By increasing our Nation's exports, we will create jobs and opportunities for all Americans, without raising taxes or increasing the Federal budget. While our Nation's unemployment rate hovers between 9 and 10 percent, it is simply inexcusable to not do what we know we can do that will create jobs in America.

One commonsense way to open more markets is to pass trade agreements with Colombia, Panama, and South Korea, which have been stalled in Congress. While Congress dithers, Colombia has moved forward on trade deals with Canada, Chile, the EU, Brazil, and Argentina—to name a few of our competitors. Comparably, tariffs have caused American farmers to lose nearly 20 percent of total agricultural markets in Colombia over the last 5 years. It is past time to pass these trade agreements and create more markets and, therefore, more jobs for Americans.

For the United States to remain competitive in a global market, Congress must also develop a comprehensive energy policy that allows for an ample energy supply which is both affordable and reliable. Rising gas prices and recent events in the Middle East have demonstrated once again the importance of having access to a reliable energy supply. No simple form of energy can provide the answer. To meet our country's energy needs we must develop traditional sources of oil, natural gas, and coal, encourage the development of renewable energy sources such as biofuels, wind, solar, geothermal, and hydropower, expand the use of nuclear energy, and encourage conservation.

Lastly, we need to repeal the flawed health care law and replace it with commonsense changes that reduce increasing costs and promote choice in our health care system, such as increasing competition in the insurance market, giving States the flexibility to address the health needs of their unique populations, enacting medical liability reform, and enabling small businesses to pool together to offer coverage at lower prices. These ideas have bipartisan support and are backed by the American people because we know they will work.

Congress should be an ally of the people, not an adversary. Congress has a responsibility to create an environment where the free market can succeed, so business can move forward with confidence and start creating jobs again.

In Washington, DC, it is often easy to forget what is most important in the midst of all the talk of partisan politics, the next election or the latest poll. When I need a reminder, I will talk a walk—and I will walk from this magnificent Capitol to the Lincoln Memorial. Between those two points, I pass the World War II Memorial, the Vietnam Wall, and on the way back I will walk by the Korean War Memorial. These memorials to our citizen soldiers help put everything in its proper perspective. Our freedoms are so important that our Nation's sons and daughters were willing to risk their lives to defend and protect them. These brave men and women didn't sacrifice for Republicans or Democrats; they gave their lives for the greater good of our country and to ensure their children and grandchildren would also experience American freedom and liberty.

We have before us an opportunity—an opportunity to set aside the game of politics and to work together to confront the enormous challenges before us. Whether we have the courage to tackle our fiscal crisis now will determine the course of our country's future for the next generation.

I stand ready to work with my colleagues in this chamber to do what it takes to get our economy back on track. Americans are known for their enterprising spirit and strong resolve, and our country will recover when we begin to live within our means and create a pro-growth business and jobs environment.

Last month, we recognized the 100th anniversary of President Ronald Reagan's birth. It was a fitting time for all Americans to honor the memory of a man whose leadership guided our country through many challenges. Our 40th President believed in the greatness of America. He believed in the principles of individual liberty, self-government and free enterprise. And he believed there ''are no limits to growth and human progress when men and women are free to follow their dreams.''

It is with that same optimism and hope for the future that I stand before you today. I didn't come to Washington for personal glory. I came to Washington because I believe we have the responsibility to be good stewards of what we have been given and to pass on to the next generation the life we love and lead. We know what American can and should look like.

When I took the oath of office, I pledged to support and defend the United States Constitution and to faithfully fulfill the duties of this office—so help me God. I will continue to seek His help and His guidance in the days ahead, knowing that in Him all things are possible.

As I humbly begin my new responsibilities, I remain committed to leading with Kansas common sense, and to making the tough choices necessary today, so that tomorrow—and every day thereafter—our children and grandchildren can live in an America that provides them the opportunity to dream big and pursue those dreams.

If I am successful, I will have fulfilled my responsibilities. If I am successful, I will have fulfilled my responsibilities as a parent, just like my mom and dad, and as an American who believes our country's better and brighter days lie ahead.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I congratulate our new Senator from Kansas for his inspiring first speech to his colleagues and suggest that it seems we have a new Senator from Kansas in the tradition of Bob Dole and Sam Brownback and PAT ROBERTS, and I congratulate our new colleague on a fine and inspirational first speech.

Mr. MORAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FISCAL CRISIS

Mr. SESSIONS. Mr. President, we had two important votes yesterday on what we are going to do about the surging debt this Nation is incurring and the dangers that debt poses to the future health of our economy, the prosperity of our people, and the employment of our people.

We had a debt crisis, a financial crisis in 2007, that we still have not recovered from. It damaged us. It damaged American individuals. There are people unemployed in large numbers because of that. We have not yet recovered from it. We have some growth, but we have not yet come out of it. We have to deal with it in a serious way.

So the proposal was, as passed by the House, to reduce the spending for the rest of the 7 months in this fiscal year ending September 30 by $61 billion. Our colleagues in the Senate basically proposed to do nothing, a $4.6 billion reduction in spending over the rest of this fiscal year. That is an unacceptable number. Perhaps we can disagree over where cuts ought to occur, but it is critically important at this time in history, as I will discuss, that we take real action that sends a message and actually saves money, not Washington speak about saving money, but real savings in money.

We can do that. Every city, county, and State is doing that all over the country, and far bigger reductions in spending than we are discussing here. So the House proposal was to reduce discretionary spending $61 billion, which is about a 6-percent reduction in the planned spending level. That is not going to destroy our country. It is still well above the levels we were spending in 2008. But that $61 billion, when calculated over 10 years because it reduces the baseline of our government spending, would calculate a net savings of $862 billion, counting interest, because it is that $61 billion every year plus the interest. We pay interest on the debt we are running up.

We started out projecting a $1.3 trillion deficit this year, the largest in the history of the Republic. But now the scores have gone up, and we are looking at over 1.6. We spend $3.8 trillion, but we are bringing in only $2.2 trillion. This is why 40 percent of what we are spending this year is borrowed.

We have an opportunity now; this CR is it. We need to reduce spending now. People say, well, we can wait. We do not want to reduce spending for some of our favorite programs. This is damaging. We hear the old speeches that sound like they were given 20 years ago about any proposal to cut any spending level is seen as some total disaster, suggesting that the Republic will cease to exist. Of course, Americans know that is not so. They are not buying that. What world are we in?

The President submitted a budget that basically does nothing but continue the increases in spending. We just had the State Department in the Budget Committee. I am ranking Republican on the Budget Committee. They are asking for a 10.5-percent increase in the State Department's spending. The Department of Education was in last week. They want 11 percent. The Department of the Interior was in. The President proposes a 9.5-percent increase in their spending.

Increases in 2012, that is their proposal. What world are they in? What about Transportation? Do you know how much they proposed increasing Transportation? Sixty-two percent. What world are we operating in? People say: You are just exaggerating. It is business as usual. We do not have to make any changes. We need to make investments, SESSIONS. This country needs to have more investments. The State Department had a 33-percent increase in 2 years. The Education Department had a 30-percent increase. I mean, when does it stop?

If we reduce some of the increases that have been obtained, is that a real cut or is it just moving back to a more sane level? That is what it does. But when we do not have money, we have to make tough decisions.

So, again, the question is, Are we just raising this politically? Are we just trying to make a political point or is there really something that is happening in America that is dangerous and requires us to take this step whether or not we want to take it? Are we required to? Is it real? Do we have a crisis that is dangerous for us?

Mr. Erskine Bowles and Mr. Alan Simpson, Senator Simpson—Mr. Bowles was President Clinton's Chief of Staff—were appointed by President Obama to cochair the debt commission that did their report. This is what they said the day before yesterday, both of them. This was their signed joint statement to the Budget Committee the day before yesterday:

> We believe that if we do not take decisive action, our Nation faces the most predictable economic crisis in its history.

Are these extremists? They spent months studying the crisis the Nation is in and what it takes to get us out of it. They proposed some substantial changes in what we are doing. Just yesterday they said: We are facing a crisis, the most predictable the Nation has ever faced in its history.

In other words, we can see it coming. People say: Oh, it will not happen to us. Well, they should probably pick up the book, ''This Time Is Different,'' by Professor Rogoff at Harvard and Reinhart at Maryland, one of our other great universities. And their book proposes and shows how governments, sovereigns, get into financial trouble and how quickly bad things can happen. The title of it should tell you something. The title is, ''This Time Is Different.''

The title suggests that all of these great financiers in these countries that ran up too much debt never thought it was going to happen to them, and when people raised questions, they said: Do not worry, this time is different.

Well, is this an extreme book? Is this a dangerous book? They say when your debt, based on history and worldwide studies, reaches 90 percent of your total economy, your total debt equals 90 percent of your GDP, your economy, on average, loses 1 percent growth and is at risk of a catastrophic adjustment, some sort of crisis.

Well, what percent of GDP are we now? We have gone over 95 percent. The experts tell us by September 30, when this fiscal year ends, we will be at 100 percent of GDP. So is this some sort of fearmongering talk or are we just dealing with reality? Are we really facing a crisis we can see plainly in front of us? I suggest it is.

Mr. Geithner, President Obama's Secretary of the Treasury—unlike his Budget Director who also testified before the Budget Committee, Mr. Geithner was more frank when asked: Do you agree with the Rogoff study? Is that a sound study? ''Yes, I believe it is.''

Then he said this, frankly: ''I think it understates the risks.'' Understates the risk. And when asked about that, he said, basically, there can be systemic, immediate shocks that occur that are unpredictable just like in 2007 when all of a sudden we went from a boom to a bust, and as things happened in Greece, Ireland, and Iceland these things can happen in this modern world with electronic financial transfers very quickly.

I believe we can prevent this. I believe we can prevent it. But we have to take action or we are heading in the wrong direction. Did you notice the news yesterday? Bill Gross, who runs the world's biggest bond fund at Pacific Investment Management, announced they had totally eliminated U.S. Government-related debt from their flagship fund, as the United States Government projected record deficits.

So that is a big development, frankly. I mean, he manages more money than anybody in the world—I guess in the history of the world. He has eliminated government debt from the Total

Return Fund, and that was just announced.

So is that something we should be concerned about? I think it is. Because who is going to buy our debt? Who will buy our Treasury bonds, now 10-year bonds, at 3.5 percent or so interest? People who get worried about their debt sell their bonds. Who is going to then buy them? Where are we going to get people to buy our bonds without paying higher and higher interest rates?

Well, is our crisis coming upon us? Let me share with you the testimony that Mr. Simpson and Mr. Bowles gave to the Budget Committee just 2 days ago.

This is what Mr. Bowles said, Cochairman appointed by President Obama. He is very worried.

This problem is going to happen. It is a problem we're going to have to face up to in maybe 2 years, maybe a little less, maybe a little more.

He is talking about a crisis. He said it is the most predictable crisis the Nation has ever faced. He is pleading with us to get off the unsustainable path we are on.

What about Alan Simpson, the distinguished Senator from Wyoming who is so frank and articulate. He is also a delight to hear. He said:

I think it will come before 2 years . . . I'm just saying at some point, I think within a year, at the end of the year, if they [the people who hold our debt] just thought you're playing with fluff—5, 6, 7 percent of this hole—they're going to say, ''I want some money for my paper.'' And if there is anything money guys love, it's money. And money guys, when they start losing money, panic. And let me tell you, they will. It won't matter what the government does, they'll say, ''I want my money, I've got a better place for it . . . '' Just saying for me, it won't be a year.

Mr. President, we have a time agreement?

The PRESIDING OFFICER. The Senator's time expired some time ago. The time is limited to 10 minutes.

Mr. SESSIONS. I thank the Chair. I ask unanimous consent for 2 additional minutes.

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

Mr. SESSIONS. This is from the Washington Post, late January:

In an analysis of the U.S. debt last week, S&P analysts said the unthinkable could occur unless U.S. officials take action.

They go on to say:

U.S. officials must act quickly to control government deficits or face slower growth and even more difficult choices in the future, the International Monetary Fund said Thursday in a report criticizing the tepid U.S. response to its rising debt.

Admiral Mullen, Chairman of Joint Chiefs:

I believe that our debt is the greatest threat to our national security.

Secretary Hillary Clinton, Secretary of State:

Secretary of State Hillary Clinton waded into the nation's fiscal debate Wednesday, calling the expected $1.3 trillion U.S. deficit ''a message of weakness internationally.''

Clinton says the deficit is a national security threat. It was $1.3 trillion when she said that in September. The projected deficit now is $1.6 trillion-plus. Secretary Geithner said the same.

We have had a debate. We had 10 Democrats defect from the Democratic bill that did nothing, saying we needed to go further. We had two Republicans defect. One Independent defected, probably thought it was cutting too much. But the majority of Members seemed to be saying we need to reduce more.

I suggest that our leaders get together. If there is a disagreement about where the reductions ought to occur, so be it. Let's work that out. But we need to reduce spending significantly. The House number is a minimal amount. I believe it will send a message to the Bill Grosses of the world who move billions of dollars around that this country is willing to take action, even tough action, to get off this unsustainable path.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

(The remarks of Mr. SANDERS pertaining to the introduction of S. 552 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SANDERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Alaska.

Ms. MURKOWSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ENERGY POLICY

Ms. MURKOWSKI. Madam President, last week I spoke on five of the steps we need to take to increase domestic oil production. Today I wish to take a few moments to speak more broadly about our Nation's energy policy as a whole, what the proper goals for such a policy should be, and the false choice between increased domestic production and reduced oil consumption.

Energy policy has repeatedly been brought up as an area where this Congress and this President can find common ground. Knowing something actually needs to be done, however, is no guarantee it will be done. The truth is most of us know we can improve in the area of energy. With oil prices at above $100 a barrel and the price at the pump heading toward $4 a gallon, we need to develop a coherent national energy policy to find that common ground, and that need has taken on even greater urgency.

So what makes for good energy policy and how can we ensure that agreement is finally reached on meaningful energy legislation? I think we should have essentially five goals, and those five goals are: an energy that is abundant, affordable, clean, diverse, and domestic. I realize these words, especially in combination with one another, don't lend themselves to a clever acronym or a catchy slogan, so maybe we need to rearrange them and figure out what word we can make. But if we follow these as our guiding principles and make sure our legislative efforts reflect each and every one, I believe genuine progress can be within our reach. So let's start with the concept of affordable energy, because that is certainly the most relevant topic right now.

Times such as these serve as a wakeup call as to how important energy—and particularly affordable domestic energy—is to our Nation. Energy provides the base of everything we do; not just heat and power and light and transportation, but the food we eat, the clothes we wear—everything. Whether for a server farm or for a soybean farm, abundant and affordable energy is the foundation for a robust economy. But, unfortunately, there seem to be those who feel the key to clean energy is to make energy scarce and expensive. We don't need an experiment or an act of Congress to know an economic recession reduces emissions, and a depression, of course, would even do that more so. The current price of oil is a stark reminder that while making energy scarce and expensive may, in fact, reduce our emissions, it is an even more effective way to crush an economic recovery. That is not good for us.

The President has proposed we should raise the taxes on oil companies, but in the middle of tough economic times, the American people are not open to those policies that will increase their energy costs. There is a better path that would do more to bolster our energy security, more to create jobs, more to generate government revenues and, equally, more to reduce our deficit. Instead of punishing one industry to promote another, let's use our tremendous reserves of conventional resources which account for more than 80 percent of our energy supply. Let's use these to fund the next generation of clean technologies. Let's prove up and produce our resources and then put these revenues toward—whether it is tax incentives, whether it is additional research, whether it is studies at our universities, you name it, but let's use these wisely.

Speaking specifically to the regulatory burdens on energy, I think we all recognize the Clean Air Act has made our air cleaner and certainly improved our health. Carbon monoxide, SO_X, NO_X, and a host of other pollutants have largely been removed from smokestack and tailpipe emissions. I think we recognize there is more we can do in terms of the regulation of HFCs and other greenhouse gases which, while they emit much lesser quantities, they certainly have potent greenhouse effects. But the Clean Air

Act is not the proper legal framework for regulation of carbon dioxide, which is emitted in huge quantities by almost every human activity and whose effect cannot be confined to a nonattainment area, and which, in itself, is not harmful to health. All of us want a cleaner energy supply, but the approach taken over the last several years seems to have been one of all or nothing instead of the all-of-the-above approach, and I think it has been counterproductive. We need to seek out and accept policies that will lead to steady progress.

We don't yet know the best way to provide energy that is clean and abundant and affordable, but what we do know is there is a whole myriad of opportunities. We have oil and natural gas; we have wind; we have solar; we have hydro; we have geothermal. We have coal, biofuels, fission, fusion. Just naming the types of energy and the subcategories within energy is a whole floor speech in and of itself. Whether it turns out to be fireflies we collect in a bottle or something we simply haven't even imagined yet, we don't know what source or what combination of sources will actually turn out to be best for America. That should be cause for those of us here in Congress to be extraordinarily careful in trying to predetermine what sources should either win or lose. We are always talking around here about we need to steer clear of picking winners and losers, and yet it seems that is what we do all the time. A diversity of energy sources provides the best proving ground and insurance against overreliance on any one source, and a healthy economy provides the best demand for the cleanest sources available.

Winston Churchill once said:

> On no one quality, on no one process, on no one country, on no one route, and on no one field must we be dependent. Safety and certainty in oil lie in variety and variety alone.

Winston Churchill was talking about oil, but his words are just as applicable to our need for diversity in all of our types of energy.

Finally, the need to make our energy domestic to the greatest degree possible is something we have all known—we all know we need to do this—but we have failed to do anything about it for decades. It shouldn't take an upheaval in North Africa to convince us that sending billions of dollars a day out of our economy to countries that are not our friends is a bad idea.

We know it is a bad idea. Yet we continue year after year after year. We need to focus on two parallel tracks: increased domestic production and decreased consumption. We absolutely should reduce our dependence on oil. In our early days of the automobile, we saw a wide range of experiments as inventors and entrepreneurs strove to find the best approach. Again, I think we are on the verge of a renaissance in vehicle technologies where we explore electric vehicles, biofuels, fuel cells, efficient diesels, natural gas, propane, and other approaches. But for right now, today, we use 20 million barrels of oil a day, and for the vast majority of its uses there is no imminent substitute.

I said last week in my comments that for the sake of our national economy, for the sake of our Nation's security, and for the sake of the world's environment, we should produce at home the highest possible percentage of the oil we do consume.

Domestic production is currently being stifled by those who engage in what I guess you would call magical thinking—that if only we stop producing oil in the United States, then the world's need for oil is going to go away and Skittles are going to fall from the sky and unicorns will prance in the streets. It is just not real.

The harsh reality is our foreign oil dependence contributes to conflicts where young men and women die or come home without limbs, and we wreck our economy. There always will be future conflicts in the world, whether in the Middle East or elsewhere. As a nation, we will have to decide on our proper role in each. We can and should do everything possible, however, to eliminate foreign oil dependence as a strategic consideration.

Madam President, none of this is due to America running out of oil. In Alaska, my home State, we have estimated reserves in excess of 65 years' worth of Persian Gulf imports. So, again, in Alaska alone—one State—we have reserves in excess of 65 years of what we take from the Persian Gulf. There are also, of course, tremendous reserves in other States and, of course, offshore.

For decades, opponents of domestic production have argued that we should not produce more because we are not going to see this come online for years to come. If, 20 years ago, or even 10 years ago we had ignored those who had said ANWR was unacceptable because it would take a decade to develop, we would now, at this point in time, be enjoying another 1 million barrels of domestic production per day. But we said, 10 years ago, 20 years ago, it is going to take too long to bring that ANWR oil online, so we just ought not do it. Look where it puts us today.

Opponents also like to say that a policy of increased domestic production will have no immediate effect on oil prices. We don't even want to waste time arguing the folly of trying to dismiss good national energy policy because it is long term. I also note that using the Strategic Oil Reserve to mitigate high oil prices—to maybe push them back below $100 a barrel for a short term, a couple weeks—should be unacceptable to us. We need a viable long-term answer, not a short-term and shortsighted political alibi.

There is nothing that OPEC fears more than America committing to the twin tracks of increased domestic production and reduced consumption. Were we to do so, we would see OPEC doing everything in their power to drive down world oil prices to make us abandon our policies and, once again, hamstring ourselves and make us reliant upon them for our oil.

I want to offer an important perspective. Even if we cannot accept that America increasing production and decreasing consumption would affect global oil prices, remember, price is not the only reason to advance such a policy. Right now, the high price of oil works against America, and it works for every nation that deliberately produces its reserves. Production provides them with jobs, it provides them with revenue for their government, and it provides better trade balances and national security, but all at our country's expense.

We are the only country that has identified a huge resource base and then absolutely refused to produce it. So often we hear on this floor discussion about China eating our lunch in clean energy, about Japan and Germany outpacing us in wind and solar technology. But does anybody think if those countries had a Gulf of Mexico or an ANWR, they would not be drilling in those areas as we speak? Does anyone think those nations demagog nuclear power or refuse to permit coal plants? Their energy policies are on a better track than ours. They are not just looking at what is happening today; they are looking at tomorrow, at today—they have an energy policy that carries them out.

There is an article in the Wall Street Journal of yesterday by Nansen Saleri. He concludes his article with this statement:

> The U.S. does not have an energy problem. It has an energy strategy problem.

Think about that. It is not lacking the resources; it is the strategy for how we develop our energy resources.

During his campaign, President Obama liked to quote Dr. Martin Luther King and talk about ''the fierce urgency of now.'' There are few issues more important or more fundamental to our Nation's long-term success than a viable energy policy. People are very correct when they say that parts of this will take time, and parts will take a longer period of time. But now is never more fiercely urgent than when we have such an important and long journey ahead of us. If we are ever going to take control of our energy future, now is the time to come together and support policies that promote abundant, affordable, clean, diverse, and domestic energy. It is critically important to us.

I look forward to these conversations that we will continue on the Senate floor as we talk about ways we not only work to reduce our budget, ways we not only work to create jobs in this country, but ways that we truly build a strategic energy policy for the long-term for this country.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

GASOLINE PRICES

Mr. ENSIGN. Madam President, I wish to talk about gasoline prices and energy. Just a few years ago, this Nation was in the middle of an energy crisis not unlike the one we are in today. Back then Nevadans were confronted with record prices at the gas pump, and this body did nothing to relieve their burden.

When I joined my colleagues to demand that we explore our own domestic energy possibilities, the call fell on deaf ears. In May of 2007, I said that ''moving America toward energy independence needs to be more than a bumper sticker and a campaign slogan.'' Unfortunately, it remained just that.

Campaign promises to protect our Nation's security interests remain on the campaign trail, and cheers at political rallies to increase America's energy independence are left behind with deflated balloons and forgotten confetti. Well, here we are. My colleagues on this side warned against what an unstable Middle East could mean for our gasoline needs. Yet, today, what are we witnessing? Turmoil in that region and escalating gasoline prices at home once again.

Unfortunately, this time around, our economy is also in trouble. My State of Nevada has continued to suffer the most during this recession, and economists are not predicting a quick turnaround anytime soon.

The problem with this new energy crisis is that a record number of people in Nevada and around the country are now without jobs and without homes. So how are they supposed to afford $4-a-gallon gasoline or maybe even $5-a-gallon gasoline at the pump? I will tell you simply, they cannot afford this.

Recent unrest in Egypt, Libya, and other countries has forced gas prices to rise nearly 40 cents a gallon in the recent weeks. For those struggling in my State, that is verging on unfavorable. For those who are worse off, it already is. The price of gas is at a 2-year high. The average price of a gallon of gasoline in America is now $3.52. When President Obama first took office, the average price for a gallon of gasoline was $1.84. That is a 91-percent increase. What are we doing? Nothing. In Nevada, gas prices are rising and are now above $3.60 a gallon. The biggest concern with the rising cost of gasoline is that it translates into higher prices at the grocery store, utility bills, and virtually everything we do.

I have spoken at length over the past few years about people in my State who are being forced to decide between paying the rent or putting food on the table to feed their families. But what are they going to do if they can afford to do either? This is a sad thought for me but a reality for many others.

Throughout this economic downturn, Members from both sides of the aisle have come to the floor to talk about people in their home States who are suffering. Philosophical differences aside, both parties have put forth legislation that they believe will help the economic plight of many Americans. What have we done about energy prices that threaten to derail recovering families? Nothing.

Rising gas prices affect nearly every sector of our economy. Everywhere we look in America today, our economy continues to be directly affected by the skyrocketing price of fuel. At a time when unemployment is over 14 percent in my home State and Americans are already struggling financially, we can no longer allow this problem to be ignored or to be set aside. We need real solutions that develop our domestic energy and oil production, and we need those solutions to decrease our dependence on dangerous foreign oil.

We send over $500 billion a year out of this country to buy foreign oil. A lot of that money ends up financing the very people who would do us harm. What America needs is everything but foreign oil from dangerous countries. That needs to be our energy policy so that we can ensure that the price of gas does not further cripple our crumbling economy.

In 2008, I spoke on the Senate floor and said these following words:

> The American people are looking to us for solutions. We have a responsibility to make decisions here in order to provide them much needed relief at home. For many months, Republicans have been working to provide that relief. We have been focused on a three-pronged approach: boosting renewable energy and alternative energy, encouraging energy efficiency, and growing our American energy supply. This line of attack balances the need for us to be responsible stewards of our environment with the need for reliable, affordable energy to fuel our lives and our economy.

Again, that is what I said in 2008 when Republicans wanted to address the need for American energy independence. But the Democratic majority had other priorities.

We simply cannot continue to pass the buck on to another Congress and kick the can down the road. We need to take action, and we need to do it now.

Like the spending cuts, everything needs to be on the table when discussing American energy independence. By working to eradicate our dangerous dependence on foreign oil from the Middle East and Venezuela, we can protect Americans from choosing between paying the rent, providing food for their families, or paying for gas to drive to work.

What does an ''everything but dangerous foreign oil'' approach look like? It means 10 billion barrels of oil from ANWR in Alaska. It means 28 billion barrels from deep-sea exploration; about 1.8 trillion barrels possibly from oil shale in Colorado, Utah, and Wyoming; trillions of cubic feet in American natural gas. It also means a 230-year supply of coal and great potential for nuclear energy. These are American sources of energy. If we combine those with conservation and aggressive investment in renewable and green energy—solar, wind, geothermal, hydropower, fuel cells, and electric vehicles—they are all key to our American energy independence.

I recently visited a couple of different places in my home State of Nevada that are producing electric cars. Those are great, but you still have to produce the energy to produce the electricity to run those electric cars. That is why we need this ''all of the above'' approach for American energy independence.

My home State of Nevada is actually a shining example of many innovations being made on these fronts. Nevada Solar One in Boulder City is one of the largest capacity solar powerplants built in the world and generates enough electricity to power at least 14,000 households a year. Nellis Air Force Base in Las Vegas has the Nation's biggest photovoltaic solar power system, which supplies 30 percent of the energy used at the base. Henderson has Nevada's first solar community, where each home has a rooftop solar electric system. Late in 2007, Ausra, Inc., selected Las Vegas as the site for the first U.S. manufacturing plant for solar thermal power systems. The world's third largest geothermal power producer is headquartered in Reno, NV. And Nevada is home to the only associate degree program in the Nation in energy efficiency. It is absurd to think that people in Nevada are going to be crippled by increasing prices at the gas pump at the same time that our State is leading the way in renewable energy innovation simply because Congress will not act to address this crisis.

Throughout this last year, bills were passed filled with unintended consequences because every dip in the economy was deemed by some to be a crisis that required an immediate solution. Yet we knowingly continue to ignore the energy crisis that will continue to plague our country every time the Middle East cannot get along.

According to the Department of Energy, oil is the source of more than 40 percent of our total energy demands and more than 99 percent of the fuel we use in our cars and trucks.

The Senator from Alaska, Ms. MURKOWSKI, was just on the floor talking about how we all want to transition to a more green economy. But the fact is, that is going to be years and even decades away, so we have to have American sources of energy here now.

The United States consumed about 19 billion barrels of petroleum products a day in 2009. We receive over half of this oil—51 percent—from foreign sources, predominantly from the Middle East, Africa, and Central America. We cannot continue to ignore this issue. Inaction is no longer an option.

The Obama administration's approach to developing domestic energy production has been to impose regulations, withdraw permits, and shut off access to lands that contain valuable oil and natural gas deposits. In addition, the EPA is currently regulating domestic energy resources for greenhouse gas emissions under the Clean Air Act. We can no longer afford organizations, such as the EPA, claiming authority to cut off our access to resources because of arbitrary rules based on unsound science. These backdoor climate regulations could increase the cost of gasoline and electricity by 50 percent. These policies work to promote our dependence on foreign oil, and they do nothing to reduce the cost for ordinary Americans.

Ten billion barrels in ANWR in Alaska means that not drilling is not an option. ANWR is roughly the size of South Carolina, but drilling in ANWR will only be about the size of McCarran Airport in the city of Las Vegas. That is about 2,000 acres out of the size of South Carolina. If I had a map here, it literally would be a dot on a huge map. That is how tiny an area we have to disturb to get this 10 billion barrels of oil out of ANWR.

We can even access ANWR during the winter months. We can drive out on ice roads that are 6 feet thick, and then in the spring, when everything starts to melt and the animals need to come out for their breeding in the springtime, we can cap the wells, take all of the equipment out, and let nature take its course in the summer months.

Additionally, at least 40 billion barrels of recoverable oil in the National Petroleum Reserve-Alaska and the Chukchi and Beaufort Seas means that Alaska alone can replace crude imports from the Persian Gulf for nearly 65 years. Let me repeat that. New oil in Alaska can replace what we import from the Persian Gulf for the next 65 years. If that is not in the interest of America—our national security interests and our national economic interests—I don't know what is. I bet that is a statistic the Obama administration would rather keep hidden. As a matter of fact, they are keeping it hidden because the EPA is blocking the ability of Americans to go in and get those oil and natural gas reserves.

Also, in Louisiana, drilling for natural gas in the Haynesville Shale resulted in an estimated $5.7 billion in new household earnings for Louisiana residents in 2009, and it created over 50,000 jobs. I mention this because going after American energy produces American jobs. I think everybody in this Chamber agrees we need American jobs today.

Now we are finding that there are more reserves located in central Louisiana and southern Mississippi, and they may contain 7 billion more barrels of natural gas. But we have also found many natural gas reserves in the rest of the country. Shale reserves in Pennsylvania, Ohio, New York, Oklahoma, and West Virginia could provide us with literally billions more barrels of natural gas.

Yet, in the midst of this abundance, the administration has strapped down these reserves with regulations and too-long-to-comply-with permits. The solution to this situation is simple: We need to streamline the process to allow America to access its own resources without the hindrance of bureaucratic redtape. If we are allowed to fully tap into the potential of these reserves, we will be one step closer to developing affordable and environmentally safe compressed natural gas vehicles. This will not only curb our reliance on dangerous foreign oil but also create even more jobs and put us at the forefront of alternative-fuel technology. By using our own natural gas reserves, we can build more powerplants, improve our transportation needs through buses and trucks that run on natural gas, power our fleets, and improve our country's ability to manufacture steel, fabric, glass, and plastic that we need instead of outsourcing these jobs overseas, which is what has been happening.

Madam President, 28 billion barrels of deep-sea oil means that the Obama administration cannot continue to hold these reserves hostage by banning deep-sea drilling. The Gulf of Mexico and the Atlantic coast areas alone hold commercial oil reserves of 28 billion barrels of oil and up to 140 trillion cubic feet of natural gas. These are huge reserves.

Despite the administration lifting its moratorium on permits late last year, only one deepwater well permit has been issued in the last 11 months—only one. We can and we must do better than this.

Yesterday, it was reported that the Obama administration will issue another handful of deepwater drilling permits in the near future. Of course, this comes at a time when the administration is appealing a ruling from a Federal court that has ordered the administration to act on the permits that have been pending and that have been virtually ignored.

Secretary Salazar, in a Senate subcommittee hearing just yesterday, said oil production in the gulf will not drop significantly as a result of the administration's delay. He said we ''may see a blip.'' Well, this country cannot afford to see a downward blip. As a matter of fact, we need to see an upward tick. We need to see more production coming out of the Gulf of Mexico.

Recently, Senator VITTER drafted his No Cost Stimulus Plan, as he calls it—or his 3 Ds. Those 3 Ds are domestic energy, domestic jobs, and reducing the deficit. This bill aims to increase our ability to access domestic energy sources to increase our energy independence. It would use these domestic energy sources to create thousands of real, private-sector, long-term jobs in areas such as my State, where we have the potential to lead the Nation in renewable energy.

In 2009, the Obama administration canceled 77 oil and gas leases in Utah, and in 2010 it canceled another 61 oil and gas leases in Montana. This is astounding to me because now, instead of acting on American energy independence, we are trying to stifle the progress we are making. Senator VITTER's legislation would direct the Obama administration to reinstate oil and gas leases that were canceled and to open ANWR to oil production.

Senator VITTER's legislation would also establish an ANWR alternative energy trust fund so we can pay for renewable energy development with our own money instead of borrowing money from China and Saudi Arabia and others to do it. The bill also restricts the EPA from imposing regulations that cut off our access to oil and gas resources instead of utilizing them.

We have been talking about the debt on this floor and overspending. We need legislation to go after American energy. By the way, this legislation would not cost us any money. As a matter of fact, it brings in money to the U.S. Treasury because we get royalties off of American energy. That is the direction in which the Senate, the House, and the President needs to take our country—less dependence on foreign oil, more American security from an energy independence standpoint, more economic security, and more military security as well.

Republicans have solutions and we are eager to start this debate, but we need the majority to bring these bills to the floor of the Senate. The issues are too critical for us to delay. We can't afford to let gasoline continue to go up and up and up, to $4, $5, who knows where it is going to stop.

Unfortunately, President Clinton vetoed the bill that would have opened ANWR back in the mid-1990s. I think we were one vote short in passing the ability to open ANWR when President Bush was President. This body failed by one vote. That is unfortunate, because if we had opened ANWR, we wouldn't be in nearly as bad shape as we are in today. But it isn't just ANWR, it is many other places where we can have American energy and we need to act and we need to act now.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

DEBT AND NATIONAL SECURITY

Mr. THUNE. Madam President, I rise to talk about our Nation's security and what the Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, recently said is the greatest threat to America's future. He mentioned not too long ago that the greatest threat to America's national security is our national debt, not al-Qaida or the Iranian nuclear threat or instability in the Middle East or Russian spies but our national debt.

That is a stunning statement, but I think it is backed up by the numbers. We are more than $14 trillion in debt.

It took 220 years of American history, up to the beginning of 2009 and with 43 American Presidents, to pile up $6.3 trillion in publicly held debt. Under the Obama administration's latest budget, we will double that in another 2 years and triple it in 10. That budget calls for a sizable annual deficit every single year for the next 10 years. The smallest budget deficit we would face would be $607 billion in the year 2015, and then our deficits would start rising again.

That is what the White House calls a balanced budget. I would call it a joke, but it is no laughing matter. We just learned China holds even more of our debt than the Treasury had previously thought—26 percent of total U.S. debt held by foreigners. The President's budget inevitably would add to that.

That crushing debt burden we are imposing on future generations will seriously limit their ability to live the American dream. For generations in this country, parents have sacrificed so their children could have a better life, but today we are standing that tradition on its head. Excessive spending and debt threaten to make the next generation the first in our history to have a lower standard of living than the one that came before. That was not what my parents did. My father fought in World War II. He worked hard as a teacher, a coach, he drove the schoolbus, ran a motel in my hometown, and basically did any job he could and made whatever sacrifices he needed to make in order to keep our family fed, clothed, and sheltered. His father before him, my grandfather, traveled to this country from Norway and worked doing hard labor laying the railroad across the Plains. He started his own hardware store and ran it through the Depression and war until he couldn't work anymore. He knew what it meant to sacrifice to take care of his family.

But today, Washington seems to be saying the generations to follow us will have to sacrifice so we will not have to make the tough choices. We don't want to do the hard work of living within our means, so our children and our grandchildren will just have to get by on less. Every one of us in this Congress should be ashamed of that prospect.

But more than shame for what we are doing to future generations, we should be alarmed about what we are doing to our economy today. That skyrocketing debt means a burden of uncertainty on our businesses, small and large alike. When businesses and people are uncertain if there will be a fiscal crisis, they limit their investment. Added to the stifling amount of overregulation coming out of Congress and the administration these past 2 years, it means businesses have one more reason to worry about whether they can afford to add another person to the payroll. That means fewer jobs.

One influential study, endorsed by none other than Treasury Secretary Geithner, found that countries with very high debt burdens suffer from lower economic growth rates. Median growth rates for countries with public debt above roughly the 90 percent of GDP threshold are about 1 percent lower than otherwise. The reasons for this are simple: Government borrowing crowds out private investment. The less productive public sector takes resources that could and would be better used by the more productive private sector.

We have already crossed the dangerous 90 percent threshold—gross debt was 93 percent of GDP at the end of last fiscal year and will top the 100 percent barrier by the end of this fiscal year. Under the President's budget, the debt will continue to grow rapidly, eventually reaching 107 percent of GDP—and that is even with the gimmicks and questionable assumptions the White House budget proposal contains, including what I believe are very unrealistic economic growth assumptions.

President Obama's own economic advisers have estimated that a 1-percent increase in GDP translates into 1 million more jobs. Many more people would have jobs today if it weren't for this crushing debt burden.

We did finally have some good news last Friday about private sector job creation. Nobody was happier than I to see that. But the fact remains that the labor force participation rate in the latest unemployment figures was unchanged at 64.2 percent, the lowest level it has been since the early 1980s. A lot of workers have been so discouraged with the lack of jobs they have simply stopped looking.

Let us not forget our recovery so far has lagged far behind past recessions. At this point after the 1981–1982 recession, the economy had already expanded to 10 percent. But the current recovery has only expanded the economy by .14 percent. That is not good enough. We all know if we don't act soon to get control of Federal spending and our soaring debt, any good news will be short-lived.

For 2 years, the Pied Pipers of big government told us they could spend their way out of financial troubles; that the money was free and it would lead to jobs, jobs, jobs. Well, they were wrong, and 2 years of their policies have left us dramatically worse off. It is simple: Too much government spending means too much government debt. That means a weaker economy and fewer jobs.

I think we are finally at the point where most people, even here in Washington, are willing to concede we need to get a handle on our spending. Even the Obama administration—the biggest spending White House in history—has finally come around to the realization that just maybe we should let the credit card cool off a bit.

There is no better time in America's history to change course regarding Federal spending. We are at a moment when we are about to get hit by a succession of three budgetary waves. First, the end of the 2-week continuing resolution on March 18. Then we will have to address the debt limit sometime this spring. After we have dealt with those two matters, we need to take up the budget for fiscal year 2012 because the new fiscal year is only 6 months away.

None of those is a mystery. None of them snuck up on us. We have seen them all coming. We have had plenty of warning. We have no excuse for being unprepared. I am confident we can come together and solve all three of those issues. We showed we can do it with the 2-week CR, finding $4 billion of spending that we could agree was not our most important national priority right now and could be cut. Thanks to the great work of our friend and colleague, Dr. COBURN, the GAO has confirmed there are hundreds of billions of dollars in waste and duplication we can begin to scrub out of our Federal budget.

That is our short-term situation—those three challenges. But there has also been talk of a balanced budget amendment, and I am a cosponsor of two balanced budget amendments. That is not a short-term fix. That is a long-term issue. So that is the short term and the long term.

In the midterm, we need to come up with additional solutions to get us off what I call Federal fiscal irresponsibility, budgetary brinksmanship, and deficits as far as the eye can see. We need to get back on the path of prosperity, and that path cannot be built on borrowed money and reckless spending. Getting back on the right path will require us to fix our broken budget process.

To that end, I am proud to reintroduce a bill I introduced last year that would establish commonsense reforms to improve transparency and efficiency in our budgeting process. I am proud Senators CHAMBLISS, CRAPO, INHOFE, JOHANNS, KIRK, PORTMAN, and WICKER have joined me in cosponsoring S. 439, the Deficit Reduction and Budget Reform Act of 2011.

If we don't do something to fix this broken system and soon, we are going to keep getting hit by these budget waves, and sooner or later they are going to sink us.

My proposal has three main parts. The first is budget reforms. I propose we start by reforming pay-go rules to prevent the double-counting gimmicks that too often are used around here, particularly with regard to our trust funds. We saw that double counting occur during the health care debate last year, when hundreds of billions of dollars were doubled counted—essentially spent twice—during the health care debate.

My proposal would make the Federal budget a binding joint resolution signed into law by the President. Today, it is a nonbinding resolution and routinely gets waived.

My proposal calls for a biannual budget timeline. There is more time

for oversight and to see what is working doing a budget every other year—during the odd-numbered years—and then during the even-numbered years doing oversight. So instead of looking for ways to spend taxpayer dollars, we look for ways to save taxpayer dollars.

My proposal also calls for a legislative line-item veto. Governors have it; the President should too.

My proposal would prevent the abuse of emergency spending designations, which, again, have become all too routine and all too frequent around here, to get around spending caps.

My proposal calls for the creation of a new CLASS Act trigger, if that new entitlement program is not solvent over a 75-year timeframe.

I would also modify the Medicare cost containment trigger to have honest accounting with respect to revenues and savings in the new health care bill.

My proposal also would update the Credit Reform Act to score the purchases of debt, stock, equity, and capital using a discount rate that incorporates market risk rather than the procedure that has been used in the past which, in my view, completely understates the cost of many of these programs.

I call for a new standing joint committee of Congress for budget deficit reduction. If you can believe this, there are 26 committees or subcommittees that spend tax dollars and not one that saves tax dollars. That joint committee would be responsible for producing a bill to cut the deficit by at least 10 percent every budget cycle without raising taxes. This bill would get expedited consideration in both Chambers of Congress and use only spending reductions, not tax increases. Tax increases would be off the table. A standing committee—not just issuing one report and closing up shop—its recommendations would get an up-or-down vote in Congress.

There is a precedent for doing this. I see the Senator from West Virginia on the floor. Back in the 1940s, there was a Senator from West Virginia named Harry Byrd. As they were debating whether to raise taxes to fund World War II, he came up with an idea and said: Before we do that, we ought to look at savings we can find in our Federal budget. So he proposed a joint committee called the Joint Committee on the Reduction of Nonessential Federal Expenditures. They went about the process of scrubbing the Federal budget to see if there might be savings that could be achieved that would prevent having to raise taxes to fund the war effort. In the process of doing that, that committee achieved a great many things. It was in existence for about 30 years.

What this would do is draw on that precedent and create a joint standing committee in the Congress that would be bicameral—10 House Members, 10 Senate Members—bipartisan—10 Republicans and 10 Democrats—and would have a statutory requirement each budget cycle for coming up with a specified amount of savings in deficit reductions through spending reductions.

What would we do in the short term? This proposal would freeze and cap spending. It would propose a 10-year spending freeze at 2008 levels adjusted for inflation. After all, nondefense discretionary spending has increased at an alarming rate since 2008—a 22-percent increase, when inflation has been roughly 2 percent. In other words, nondefense discretionary spending has grown in the last 2 years at 10 times the rate of inflation.

As I said, this is not a quick fix. No plan is going to solve our problems overnight, and I hope we do not take seriously anyone who claims to have a plan that will. But just the same, I do not think we should take seriously any plan that claims that an annual deficit of $607 billion is the same as a balanced budget. It is not the same, and it is not good enough. The only thing that is good enough for our children and for the future prosperity of this great country is for us to get our fiscal house in order and to embrace responsible budgeting. We cannot continue to spend money we do not have. We have to learn. Like the American people have learned to live within their means, we have to learn how to tighten our belts.

I wish to close with a couple of statements.

I mentioned earlier the statement by the Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, with regard to the greatest threat to our national security being our national debt, but I also want to quote what Secretary of State Hillary Clinton called the unexpected $1.3 trillion U.S. deficit. She referred to it as a ''message of weakness internationally,'' and she went on to say:

> It poses a national security threat in two ways: it undermines our capacity to act in our own interest, and it does constrain us where constraint may be undesirable.

That is Secretary of State Hillary Clinton with regard to these year-over-year massive deficits we continue to run.

Just today, we heard that PIMCO, one of the largest mutual funds in the country, has decided to dump government debt—its government debt. In that story that came out today that was discussing that particular move on their part, there was a quote from a gentleman, Jim Rogers, who is the cofounder of the Quantum Fund. He said:

> U.S. Government bonds are not a safe haven. I cannot conceive of lending money to the U.S. Government for 30 years.

Think about that—the United States of America is being viewed increasingly as an unsafe investment because of this massive debt we are running and what it could mean to the future with regard to inflation and interest rates and the health of our economy and its attractiveness to people not only here at home but around the world as a place for investment.

We have a major problem. These are serious times. These are serious problems. These are serious challenges. They require serious solutions and serious leadership. I hope here in the Senate we are up to that.

As I said before, it starts on several levels. In the near term, we need to get the spending under control. We are trying to do that with the discretionary spending bill that is in front of us. We need to deal with the longer term issue. I hope we can pass a balanced budget amendment. We have had votes on that in the past here in Congress, unsuccessfully, narrowly. But we need to put in place what so many States have that require them on an annual basis to balance their budgets. Then we need to put in place budget process reforms that, in my view, will put more of a straitjacket on the Congress and force us to make more of these hard decisions.

I think, frankly, because we do this every year, this budget every year, we get very occupied with 12 appropriations bills in the budget—although last year we did not even pass a budget, nor did we pass a single appropriations bill, which is a major failure of this Congress when you are running a $3.7 trillion enterprise called the Federal Government. But in our annual schedule, we need to provide time to do oversight, time to look at what we can be doing not to spend more money but to save money.

If we had a biennial budget process where we are spending money in odd-numbered years and doing the appropriations bills in those years, and then in the even-numbered years, when people go home to run for election, instead of looking for ways to spend money, we are actually looking for ways to save money, I think these reforms are long overdue.

I hope my colleagues will take seriously this issue of budget process reform. I know it is not glamorous subject. In fact, most people's eyes glaze over when we talk about budget process reform. But, in my view, there is not anything we could do that would more fundamentally change the way Washington works than reforming this budget process because it drives everything else. If we do not start there, we are never going to get this issue of spending and debt under control in the long term.

I thank my colleagues who have cosponsored this bill. I hope there will be more colleagues who will join on this bill—if not this one, something like it—that will once and for all change the way Washington works by undertaking reforms in our budget process that will lead us to greater fiscal responsibility and greater prosperity for future generations.

I yield the floor.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The Senator from West Virginia.

INTEROPERABLE WIRELESS BROADBAND NETWORK

Mr. ROCKEFELLER. Mr. President, tomorrow is March 11. For most of us, this date carries no particular significance. It does, however, reflect exactly 6 months before September 11. That date we do remember and will not forget. It is 6 months from the anniversary of the worst terrorist attack ever and a day that we as a nation can never forget. It is 6 months from the date we will honor the memory of those whose lives came to an end and the way we came together, at least for a short period of time, as a nation.

With that historic date approaching, I think it important that we honor the tremendous bravery of all public safety officials. I believe this is one of the most important issues facing the country, and it is one we can do something about very quickly and reduce the budget deficit by doing so.

Our police, our firefighters, our emergency medical technicians, and the countless others who fought that day to keep us safe and who work every day to protect us from harm—we have essentially forgotten about them.

The 9/11 Commission specifically said that you have to have a system that connected all law enforcement across this Nation in an interoperable wireless system. Obviously, therefore, that is a way of saying that the best and simplest way to honor them is to give them the tools they need to be successful, to be safe, and to do their job in a way that does not expose them to needless dangers. Right now, we are not doing that.

Much as in the first gulf war, when the Army and the Navy and the Marines and the Air Force could not communicate with each other because they were all on different systems of communications—and we all kind of laughed at that as being kind of pathetic. They have solved that, sort of, but we have not solved this one at all, involving every single American and every single firefighter, policeman, and law enforcement officer, deputies, sheriffs, all across America. When it comes to public safety communications, these everyday heroes do not have the networks that they could so easily have and that they so desperately need because we have not acted. It is the 10-year anniversary coming up 6 months from now—we have not acted.

Too often, first responders lack that interoperable network that is essential to providing an effective response in emergencies, all kinds of emergencies—a lot of them very desperate, not all of them catastrophic, but there is always that potential. They don't have the ability to communicate with one another. They don't have the ability to communicate with other agencies. They don't have the ability to communicate with other cities and States across State lines. They cannot do that. It is kind of pathetic in the age of the Internet. We have chosen to do nothing. Instructed by the 9/11 Commission to do something a long time ago, we have done nothing. This hampers our ability to respond to a crisis, this lack of equipment. Whether that crisis is a terrorist attack or a natural disaster, it puts lives in unnecessary peril.

I believe it is time to do something about it. In the Commerce Committee, we happen to take that approach. That is why I introduced S. 28, the Public Safety Spectrum and Wireless Innovation Act. This legislation does two things. First, it sets aside the 10 megahertz of spectrum known as the D-block. I don't know why it is called the D-Block, but it is the D-Block. Its 10 megahertz adds on to the 10 megahertz they already had, making 20, which means they could do the whole thing, completely connect with each other, every sheriff, police person, law enforcement, Federal, State, county, municipal. They would all be on one system and talk to each other from a common communications base and a common database. It is an interoperable wireless broadband network that we have to have, and it is that which we do not have. We do not have it because we have not made the effort.

Secondly, it gives the Federal Communications Commission the authority to do something very interesting: to hold incentive auctions based on the voluntary return of spectrum which is not necessarily being used by a whole variety of people who just want to hold on to it. It is better to hold on to something than to give it, but we give them an incentive on a voluntary basis—crucial word in this legislation—on a voluntary basis to return that spectrum. In turn, these auctions will provide the funding to support the construction and maintenance of the public safety network which they need and which I have been speaking about, and they free up additional spectrum for innovative commercial uses.

In short, this bill marries resources for the first responders with good commercial spectrum policy. It can keep us safe and help our economy grow. That is why the legislation has the support of absolutely every major public safety organization across this country, obviously including those of my State. That is why this bill also has strong support from all Governors and all mayors across this country. They have to deal with this. We do not; they do. That is why we now have the support of the administration.

I urge my colleagues to support the Public Safety Spectrum and Wireless Innovation Act. To those who say we cannot afford to do this now, obviously I would say we cannot afford not to. The role of intelligence reveals all kinds of things going on not only outside the country but inside the country, implying there is a target, or many of them, within this country.

But if this is not compelling enough, I think it is important for people to know this. This legislation pays for itself, plus does not cost a dime. According to the White House and even the industry itself, the telecommunications industry, incentive auctions will bring in revenue so much above what funding public safety requires, it will leave billions over that amount for, for example, deficit reduction. I am talking a whole lot of deficit reduction. Billions and billions. So it is a win-win-win.

I close. Let me say we have a once-in-a-generation opportunity to provide our public safety officials with the spectrum they need to communicate when tragedy strikes. We have chosen not to do that. Now there is this sort of malicious pressure of the 9/11 Commission's directive to us to do our duty as a country to the people who keep us safe.

More than that, we do need to keep this country safe, and it is not always going to be safe. We do not know when the next attack will come. So we have the incentive auctions, which are voluntary, but they will work. They can be sold for lots of money, and we will have, therefore, lots of money over and above what it costs to build this interoperable wireless broadband system across the entire country, connecting every law enforcement official to every other one.

To my colleagues I say, let's seize this moment. This is not Republican, this is not Democrat, it is simply the right thing to do. I ask people to think back to those images of 9/11, of that day, not just the 9/11 Commission report that emanated from that, why we could not stop that, but to think of the images of that day, of what those people absorbed in their lungs, the natural instinct for firefighters to come from all over the country, policemen to come from all over the country, ambulance people to come from all over the country, to New York City, a city which they do not start out loving generally out there in the hinterlands. But they knew this was a crisis, they reacted, they saved lives, they imperiled their own, and many of them lost their lives.

Let's do something historic, and let's do it together, and let's do it here in this Congress. And, certainly, let us get this all done before the 10th anniversary of September 11.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

FISCAL RESPONSIBILITY

Mr. KIRK. Mr. President, We are borrowing over $5 billion per day.

That's $35 billion borrowed per week to run our government, totaling over $1.5 trillion in borrowed money just to run for a year.

Harvard's great economic historian, Niall Ferguson, noted that the decline of a country can be marked when it pays its moneylenders more than its army. His classic case comes from the French monarchy of the 1780s who failed to make interest payments on

their debt, causing the financial collapse that triggered the Revolution. Recently, Carmen Reinhard and Kenneth Rogoff wrote a brilliant book called ''This Time is Different, Eight Centuries of Financial Folly.'' Their vast study revealed that most government officials believe they are always unique and different, causing them to make the same mistakes that crippled past nations and empires.

Using Ferguson's tipping point, where are we today?

This year, the total cost of maintaining our army will equal $137 billion. This same year, we will pay $225 billion in interest to our money lenders for the use of $14 trillion borrowed from China, Japan and elsewhere. The startling conclusion is that we have already passed Ferguson's tipping point by paying America's money lenders more than our own Army.

It gets worse.

In just 6 years, the administration says that we will have to pay over $661 billion to our money lenders for interest on our rapidly expanding debt. With the expected cost of our Army at $195 billion, our Air Force at $201 billion and our Navy/Marines at $217 billion, the total cost of $613 billion to provide for our common defense will be smaller than the $661 billion due to the money lenders. In simple economic terms, we will be forced to pay our lenders their interest money first, before caring for our own safety, or risk seeing the value of the dollars in our own wallets disappear.

Remember, these numbers are optimistic. They assume no severe spike in interest costs and no other war.

Recently, the Senate agonized over a short-term, 2-week spending bill that made a $4 billion cut to spending. We should see that bill's cuts as modest knowing that we already pay $616 million daily in interest and over $4 billion per week. In sum, the cuts of the 2-week bill saved just 1 week of interest payments.

As dire as this situation is, there is a bright side. Our country has seen this movie before. Washington, Lincoln and Roosevelt all accumulated economy-crushing debts as the fate of the United States hung in the balance. Our best example of what to do next comes from our own grandparents, rightly called the ''Greatest Generation.''

Tom Brokaw coined the title for Americans of the 1930s and 1940s who defeated the Depression, Japanese and Nazis simultaneously. I would add a fourth, largely unnoticed victory that Brokaw missed. After three great victories for freedom, our grandparents spent the next 20 years paying the debts incurred to win the contests of the Depression, Pacific and Europe. Their accumulated debts of 1946 totaled over 120 percent of our national income. Economists report that between economic growth and some inflation, the Greatest Generation reduced the crippling World War II debts that secured our victory during the late 1940s and 1950s. The return to more fiscally responsible government sparked an economic boom that built the super power called the United States of America.

The lesson of history is clear. Each generation of Americans faces conflict, war and debt. Each generation is tested. The looming debt crisis facing this government is our generation's test. While some government officials and bankers may still counsel ineffective action saying ''we owe this money to ourselves'' or ''because the dollar is the reserve currency, we can owe this amount,'' we know that the crisis we face is not that different from the ones that crippled other nations. With spending cuts and discipline we can master this danger, as our grandparents did. The need to do the hard things, like entitlement reform, is similar to the dramatic moves our grandparents made to secure our future.

But there is one difference between us and other nations. From the dawn of our revolution, the United States became the greatest force for human liberty and individual dignity ever known. The U.S. ended slavery, gave women the right to vote and spread freedom across Europe, Latin America and Asia. We are now challenged by 21st century world views in the Middle East and China that do not hold the western value of the individual as high as we do. It is therefore doubly important to do the work needed to reduce spending and balance the books so that we restore the vitality of a free people and their cause of expanding liberty and individual dignity.

Next time you talk to a member of the Greatest Generation, do not just say thank you. Ask them for advice on how to trim budgets and restore growth in the face of extraordinary debts, just as they did.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. VITTER. Mr. President, I too take the floor of the Senate to urge all of us, Democrats and Republicans alike, to focus on the single biggest domestic threat to our country, our single greatest challenge in the eyes of every Louisianan and every American I know, and that is to stop this runaway spending and debt.

Americans all around the country, certainly Louisianans all around my State, understand this is a grave threat to our economic future. It is not some vague threat to generations two and three away from us. This is an immediate threat because the path of spending and debt we are on is completely unsustainable.

For example, we must come together in a bipartisan way. We must act. We must solve this real and pressing problem before it is an immediate crisis. We should clearly do that well before any need for an increase in the debt limit arises, well before this Congress reaches a crisis atmosphere over the need for an increase in the debt limit.

For all of these reasons, I have joined with many of my colleagues. I sent the majority leader a letter today. First, let me thank my colleagues who joined me on the letter: Senators SESSIONS, RUBIO, DEMINT, PAUL, LEE, TOOMEY, and ENSIGN. The letter is very simple and straightforward. It says this is the greatest challenge we face. It says because of that, we need to face it. We need to debate and talk about it and act. We need to start doing that now, well before any significant deadline like when the debt limit may have to be increased.

The letter says: Mr. Leader, we are going to oppose moving to any other bill that doesn't directly address this crisis when we need to act on this grave threat.

Let me read relevant portions that go right to the point:

Dear Leader Reid:

Yesterday, the Senate voted on two proposals to fund the government for the rest of the fiscal year. This debate gave only a limited (three hours) opportunity to debate what many Americans believe is the issue of our time—cutting government spending and dramatically reducing our national debt. Additionally, no member of the Senate was permitted to offer amendments under the structured process, which in our opinion prevents a full, open, and robust debate.

With our national debt poised to reach its $14.3 trillion limit in the very near future, taxpayers expect Congress to work together to reduce wasteful and unnecessary spending and be more vigilant about how we spend public funds. The American people want Congress to deal with the tough issues of cutting spending, and almost every member of the Senate has agreed that we must address our fiscal situation immediately.

While there are certainly many issues that warrant the Senate's consideration, we feel that the Senate must not debate and consider bills at this time that do not affirmatively cut spending, directly address structural budget reforms, reduce government's role in the economy so businesses can create jobs, or directly address this current financial crisis.

The American people resoundingly rejected the way the Senate waited until Christmas Eve as a mechanism to force hurried debate on President Obama's massive health care legislation. Voting to proceed to another legislative measure effectively runs away from the central issues of spending and debt and repeats that flawed process.

We, therefore, are notifying you of our intention to object to the consideration of any legislation that fails to directly address this crisis in a meaningful way. Our objections would be withheld if the Senate agrees to dedicate significant floor time to debate this issue well in advance of the federal government reaching our statutorily mandated debt limit.

It is signed ''Sincerely'' from both myself and Senators SESSIONS, RUBIO, DEMINT, PAUL, LEE, TOOMEY, and ENSIGN, to the majority leader.

The statement is clear. This is a crisis. We need to act before we reach the statutory debt limit. So what are we waiting for? Let's act now. Let's not move to other cats and dogs bills that may be positive legislation but can certainly wait. Let's move to the people's business. Let's move to the absolute top challenge we face domestically. Let's come together and debate, vote on, and hopefully begin to solve this problem of unsustainable spending and debt.

To do that we also need leadership, ideas, suggestions. I believe we have provided that on this side of the aisle, and we would welcome ideas, suggestions, and concrete proposals from all Members.

Let me list the more than two dozen pieces of legislation that go directly to this issue:

S. 14, by Senator ENSIGN, establishes a commission on congressional budgetary accountability and review of Federal agencies.

S. 81 is an Isakson bill to direct unused appropriations for Senate official personnel and office expenses to be deposited in the Treasury and actually used to reduce the Federal debt.

S. 102 is a McCain bill which requires OMB to transmit to Congress a message with specified information requesting any recession the President proposes under the procedures instituted under that act.

S. 162 is a Paul bill to cut $500 billion in Federal spending from fiscal year 2011.

S. 163, by Senator TOOMEY, is the Full Faith and Credit Act to prioritize principle and interest payments when and if the debt limit is reached.

S. 178, by Senator DEMINT, reduces Federal spending by $2.5 trillion through fiscal year 2021.

S. 245 is a Corker bill, the CAP Act, to create a discretionary spending cap for Congress.

S. 259 is my bill to prioritize Social Security payments if and when the debt limit is reached.

S. 360, by Senator INHOFE, creates a point of order to exceed nonsecurity discretionary limits and to create spending limits for fiscal years 2017 to 2021.

S. 389, by Senator KIRK—and Senator HATCH has a similar bill—establishes a commission to review cost control.

S. 391, by Senator MORAN, rescinds all unobligated balances of President Obama's stimulus bill.

S.J. Res. 3, by Senator HATCH, is a balanced budget amendment.

S.J. Res. 4, by Senator SHELBY, is on the same topic.

And S.J. Res. 5, by Senator LEE, is on the same topic.

This is a long list, but it is certainly not exhaustive. I have read a partial list to make the point. We are coming up with ideas, proposals, and solutions. We encourage every Senator of both parties to come up with ideas, proposals, and solutions. Let's actually talk about the greatest threat we face. Let's talk about it now. Let's debate it now. Let's exchange ideas in a positive atmosphere now, well before we reach any crisis atmosphere over the debt limit.

I respectfully urge the distinguished majority leader, Senator REID, to heed our call to arms, to read our letter and react by creating an identified time on the Senate floor, well before we reach the statutory debt limit, to debate and pass solutions on this crucial topic.

I don't believe there is debate that this isn't the greatest challenge we face, that this isn't the greatest economic threat we face. Quite simply, what are we waiting for? We need time to bring forth these ideas and exchange them and debate them and act. We need time to do this well before the statutory debt limit is reached. We need to do the people's business in a reasonable way, in a sober atmosphere, not in an atmosphere of hysteria or threats when the debt limit would be reached in a matter of days.

I urge all colleagues to join us in this effort, to come to the floor with their ideas, their proposals. Let's do the people's business.

I ask unanimous consent that a partial list of Republican solutions and proposals be printed in the RECORD.

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

S. 14—an Ensign bill to establish the Commission on Congressional Budgetary Accountability and Review of Federal Agencies. Directs the President to designate two Commission co-chairpersons.

S. 81—an Isakson bill to direct unused appropriations for Senate Official Personnel and Office Expense Accounts to be deposited in the Treasury and used for deficit reduction or to reduce the Federal debt.

S. 102—a McCain bill which requires OMB to transmit to Congress a message with specified information requesting any recission the President proposes under the procedures established in this Act.

S. 162—a Paul bill to cut $500 billion in federal spending from FY 2011.

S. 163—Toomey's Full Faith and Credit Act to prioritize principle and interest payments when the debt limit is reached.

S. 178—DeMint bill to reduce federal spending by $2.5 trillion through 2021.

S. 245—Corker's CAP act to create a discretionary spending cap on Congress.

S. 259—Vitter bill to prioritize Social Security payments when the debt limit is reached.

S. 360—Inhofe bill to create a point of order to exceed non-security discretionary limits; also creates spending limits for FY 2017–2021.

S. 389—Kirk and Hatch bill to establish a commission which will conduct a review of cost control in the federal government every two years with respect to improving management and reducing costs. Directs the Commission to conduct in-depth studies to evaluate potential improvements in the operations of executive agencies and to develop recommendations regarding: (1) opportunities for increased efficiency and reduced costs that can be realized by executive action or legislation, (2) areas where managerial accountability can be enhanced and administrative control can be improved, (3) opportunities for managerial improvements over the short and long terms, (4) specific areas where further study can be justified by potential savings, and (5) ways to reduce governmental expenditures and indebtedness and improve personnel management.

S. 391—Moran bill which rescinds all unobligated balances of the Obama stimulus bill.

S.J. Res. 3—Hatch's balanced budget amendment.

S.J. Res. 4—Shelby balanced budget amendment.

S.J. Res. 5—Lee balanced budget amendment.

Mr. VITTER. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

ENERGY

Mrs. HUTCHISON. Mr. President, I rise to talk in morning business about the energy issue facing the country. Anyone who has filled up the car or truck in the last month knows we have an energy crisis that is building and needs to be addressed. Last week I filled up my pickup truck. It cost about $50. Across the Nation, parents are driving in carpools. Farmers, small business owners, and commuters are experiencing sticker shock at the rising cost to put gas in their vehicles. Today oil is over $104 a barrel. That means on average Americans are paying $3.52 a gallon. It is going in the upward direction from there. We are clearly in an economic downturn. We have high unemployment. Now is not the time to sit back and do nothing as the price of gasoline goes up at the pump.

In response, the White House is beginning to talk about tapping the Strategic Petroleum Reserve. We know that will not work. The Strategic Petroleum Reserve is available for natural disasters and global disasters. But experience has shown that any gain from releasing oil from the Strategic Petroleum Reserve is small and temporary, and prices quickly go right back up to their high and rising levels. If we diminish our resources, our reserves in the Strategic Petroleum Reserve, we are even more vulnerable to those who would do mischief to the country because they would know we have a diminished supply, or to the natural disasters for which we are supposed to be prepared.

Our problem is, we are the only Nation on Earth that has vast natural resources which we will not use. American energy is out there. It is under our land. It is under our waters. It is ready to be tapped, and it can be tapped environmentally safely. We could bring the prices down on our own accord. We know there is upheaval in the Middle East right now that could affect further the gasoline prices because of potential shortages. We are too dependent on foreign sources for our energy needs. It is a little more than 50 percent. That is not strategically sound, and it is most certainly not in our national security interest to leave us at that level.

The Gulf of Mexico is one of the biggest resources we have. The Gulf of Mexico accounts for nearly 30 percent

of total U.S. oil production and 13 percent of natural gas production. By failing to take full advantage of that resource, we are putting our energy security on the line.

Mr. President, 400,000 jobs across the gulf coast are tied to the offshore energy industry. Nearly a year after issuing its moratorium and months since the moratorium was lifted, the Department of the Interior last week approved its first, its one and only, deepwater permit—one in a year. It's one and one only. There are thousands of idled leases, people sitting in the Gulf of Mexico idle that should be able to be at least exploring to determine if it is worth drilling. Yet the gulf is facing a permitorium.

My constituents know the pain of this ''permitorium.'' One unfortunate case is the Houston-based Seahawk Drilling Company. Seahawk Drilling used to be the second largest shallow water drilling contractor in the United States. It provided high-paying jobs to men and women in Texas and across the Gulf of Mexico. I say ''used to'' because in February bureaucratic delays in shallow water permitting forced Seahawk Drilling to declare bankruptcy. They could not continue to have the costs associated with their employment levels, and with their company being there without the opportunity to drill and produce and keep their employee base. They declared bankruptcy. It destroyed 1,000 high-paying Texas jobs.

I received a letter describing the pain and distress the company felt when it had to inform the dedicated Seahawk employees they no longer had a job. According to the letter, on the day Seahawk was forced to sell its assets and lay off workers, the chief operating officer had to ''fight back the emotions of the day. He took a deep breath and he left the conference room for a room full of Seahawk employees to tell them that their company was bankrupt.''

These are real people with real families who lost real jobs—American jobs—and it could have been prevented.

Since the moratorium was enacted, at least 13 rigs—deepwater and shallow water—have departed the Gulf of Mexico, taking with them good American jobs, and, furthermore, putting us in the position of having to import now from the foreign countries where these rigs have gone, not only taking away American jobs but forcing us to be even more dependent on foreign imports for our energy needs.

Offshore energy production is expected to decrease by 13 percent in 2011, due to the slow pace of permitting. This is unacceptable, and we must do something that is productive.

Yesterday, Senator LANDRIEU and I introduced the LEASE Act, the Lease Extension and Secure Energy Act of 2011. All our bill does is extend the offshore leases that are impacted by the moratorium and the lack of permitting for 1 year.

The LEASE Act returns to lessees the lease time taken from them during the moratorium. This will increase domestic energy production and protect some American jobs—those that have not already left. Despite being unable to explore for energy resources, the leaseholders are continuing to pay the expenses, as time ticks away on their lease.

The LEASE Act will prevent leases from running out, and it gives the lessees the certainty they deserve that they will have the full amount of the lease for which they have paid bonus payments to secure.

In 2009, the industry accounted for $70 billion in economic value and provided $20 billion in revenue to Federal, State, and local governments through royalties, bonuses, and tax collections.

I hope our bill will be noncontroversial. It would seem to me that anyone would agree that if you paid for a 10-year lease, and you have the expenses of exploring to see if that lease has potential, before you drill to see if the lease has potential, you would have the full 10 years, and not 9 years because you have not been able to use the year we have had the moratorium and the lack of permitting.

There has been another suggestion by the administration that perhaps we should be proposing energy taxes—up to $90 billion over the next 10 years. The President suggested that in his State of the Union message. Much of the taxes that would go on the oil and gas industry for expenses—that any industry, any business can write off, but would single out the oil and gas industry not to be able to expense their exploration and drilling costs—what would happen? If the prices go up, of course, who is going to pay those high prices? The families and businesses that are having to fill their cars with gasoline.

In fact, the administration, through the EPA, is trying to bring more expenses to the refining industry by purporting to regulate greenhouse gas emissions. The administration is also adding to the refiners by saying they should not get the manufacturing tax credit.

We have been trying to encourage manufacturing in America because we want manufacturing jobs in America, and so many of those have gone overseas. But the administration proposes to tax refiners who are manufacturing the gasoline from the oil and add more expense to the product, which is gasoline, and, oh, by the way, take away the capability for these refiners to have the same treatment as any other manufacturer in our country.

Raising taxes on our domestic oil and energy industry is wrong, particularly at this time. We need to assure that we are not going to drive our energy jobs overseas. Yet what the administration is doing is counterintuitive if we all agree we want to keep the jobs in America.

So here we are with gas at $3.52 a gallon, and the summer driving season is upon us. We are looking now at estimates from the experts that gasoline could be $4 a gallon. What is that going to do to the family who wants to take a vacation at a reasonable price? What is that going to do to the workers who have to get to work and who are already strapped, and, for Heaven's sake, the poor people who are unemployed who are trying to go and interview for jobs with gas at $4 a gallon?

We cannot sit here and let this happen. It is time we get together with the President of the United States and have proactive energy ideas, programs, and solutions that are going to keep jobs in America, that will allow us to use our natural resources to begin to set the stage if we have upheaval in the Middle East that causes the supply to go down at a great rate. We need to have our supply go up to meet the test we should have of lowering energy prices for our people with our own natural resources. It is not to put the SPR out and put us in an even more vulnerable position. No. It is to use our resources, with Americans to take the jobs, and increase our supply so the price of gasoline at the pump goes down for the American people, and so we can have the jobs we should have in America stay in America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

HARRIET TUBMAN

Mr. CARDIN. Mr. President, 12 years ago this very day, the Senate passed a joint resolution that honored Harriet Tubman, with Harriet Tubman Day, on March 10. That resolution was sponsored by Senator CARPER and then-Senator BIDEN. In the House of Representatives, I served and I cosponsored a similar resolution.

Harriet Tubman was a remarkable woman. She was born in Dorchester County, MD, in 1822. She was a slave for greater than 25 years of her life. At age 25, she married John Tubman. She escaped slavery in 1849. She returned to the eastern shore of Maryland, not once but 19 times that we know of within a 10-year period, in order to rescue slaves and to set them free.

She rescued slaves in Dorchester County and Caroline County in Maryland and throughout the entire Northeast. She was known as the modern day ''Moses'' for the Underground Railroad.

In the Civil War, she joined Union forces as a spy, as a scout, and as a nurse, operating in Virginia, Florida, and South Carolina.

After the Civil War was over, she settled in Auburn, NY, and was very actively involved in the women's suffrage movement, and she established one of the first African-American homes for the aged.

She died in 1913.

Harriet Tubman embodies the American spirit. She was a strong-willed person who fought for the rights and freedom of those who were oppressed in the barbaric institution of slavery.

Her personal freedom was not enough for her because she recognized there was injustice in this country, and she wanted to be involved. As the joint resolution that passed the Senate 12 years ago said:

. . . Harriet Tubman—whose courageous and dedicated pursuit of the promise of American ideals and common principles of humanity continues to serve and inspire all people who cherish freedom. . . .

A major part of learning and understanding the significance of history is being able to experience the places where that history occurred.

From Fort McHenry in Baltimore, MD, to the Lincoln Memorial here in the Nation's capital, we have preserved our history for future generations. Millions of visitors and schoolchildren visit these iconic places in American history.

The Harriet Tubman National Historical Park and the Harriet Tubman Underground Railroad National Historical Park is legislation I have filed so we can preserve the history of Harriet Tubman with these historic places for future generations.

I am joined in this effort by Senator MIKULSKI, Senator SCHUMER, and Senator GILLIBRAND. The natural landscape on the eastern shore that existed during Harriet Tubman's day exists today. Her homestead, where her father was born, Ben Ross, exists today. Stewart's Canal, where her father worked, exists today. The Brodess Farm, where Harriet Tubman worked as a slave, exists today. Right adjacent to it, and including part of that property, is the Blackwater National Wildlife Refuge. So we have the landscape in which the Underground Railroad was operating to free slaves in the 19th century. It exists today on the eastern shore of Maryland.

In Auburn, NY, the home in which Harriet Tubman lived still exists, the home for the aged that she started still remains. The Thompson Memorial AME Zion Episcopal Church is still there, and the Fort Hill Cemetery, where she is buried. They are all intact, and all are available for preservation.

The legislation we have filed will preserve these places in American history under our National Park System for future generations. I urge my colleagues to support this legislation, to honor a great American, and to preserve our heritage for future generations.

ASTHMA AND THE IMPACT OF HEALTH DISPARITIES

Mr. CARDIN. Mr. President, I rise to speak about asthma and the impact of health disparities. I have pointed out on the floor before that race and ethnic health disparities exist in America. I have talked on the floor before about sickle cell disease. Well, the same thing is true with the chronic inflammatory diseases of the body's airways that impede breathing, such as asthma.

As I pointed out before, the Affordable Care Act includes a provision I helped write that establishes the Institute for Minority Health and Health Disparities at NIH. The purpose for including this information about asthma in the RECORD is to point out that we still have challenges that need to be met. I look forward to working with my colleagues on that issue.

Asthma is a chronic inflammatory disease of the body's airways that impairs breathing and affects more than 20 million Americans. People with this condition have overly reactive airways that constrict in response to allergens, temperature changes, physical exercise, and stress. During asthma attacks, the airways spasm and prevent oxygen from getting to the lungs. This leads to chest tightness, shortage of breath, wheezing and mucus production. Severe attacks can require intubation and even result in death. Of the 20 million Americans affected by asthma, about 7 million are children. In fact, about 10 percent of all American children have asthma.

Genetics play a significant role in the development of asthma in children and adults, but asthma is also influenced by environmental factors and racial, ethnic, and socioeconomic factors. Asthma is consistently found to be more prevalent among certain minority groups, particularly among Blacks, Native Americans, and Puerto Ricans. To be more precise, research indicates that asthma is 30 percent more prevalent in Blacks than in Whites; American Indians and Alaska Natives are 20 percent more likely to have asthma than Whites; Asian/Pacific Islander children are three times more likely to have asthma than White children; and Puerto Rican Americans have twice the asthma rate as the Latino American population overall.

In addition to occurring more often, asthma is also more severe in minority populations, and this leads to higher mortality rates for Black Americans. Asthma accounts for more than 4,000 deaths in the United States each year. Blacks are 2.5 times more likely to die from asthma-related causes than Whites. Among children, this ratio is even more staggering—Black children are 7 times more likely to die from asthma-related causes than White children. Interestingly, although Latino Americans and American Indian/Alaskan Natives are more likely than Whites to have asthma, they have a 50 percent lower mortality rate.

As I noted earlier, the gap in asthma outcomes is also influenced by several socioeconomic factors. Health disparities can be attributed to differences in education level, independent of race or ethnicity. Research shows that children whose mothers have not completed high school are twice as likely to develop asthma as children whose mothers have a high school diploma, and this difference remains significant even when controlling for race and ethnicity.

Economic status also influences the incidence of asthma. Studies have shown that unemployment is correlated with increased incidence, and that people with incomes below the Federal poverty level are 30 percent more likely to develop asthma as those who are above the Federal poverty level.

One reason is that income level is correlated with quality of housing, and substandard housing is strongly associated with poor asthma outcomes. Substandard housing exposes residents to environmental triggers for asthma such as dust mites, roaches, mold, and rodents.

A study in the journal Pediatrics showed that eliminating these indoor pollutants could prevent 39 percent of asthma cases in children. Other studies have shown that substandard housing accounts for up to a 50-percent increase in asthma cases.

In addition to indoor triggers, outdoor pollutants are also contributing factors. Researchers have shown that among people living within 50 yards of major car traffic, people living near a road traveled by 30,000 vehicles per day are three times more likely to develop asthma that those who live near a road traveled by 10,000 vehicles per day. To put these figures into perspective, the average segment of I–495, our Capital Beltway, carries about 200,000 cars per day.

The built environment comprising roads, factories, and other human-made surroundings is a substantial risk factor for asthma. Many people are stuck in unhealthy living conditions because they can't afford to move elsewhere, particularly in the case of public housing projects, which are often situated in the most polluted locations. Initiatives such as the Healthy Homes Program run by the U.S. Department of Housing and Urban Development are encouraging, but greater effort must be devoted to raising the quality of the home environment for people living in poverty.

Whether due to one or more of these factors, the impact of disparities in asthma is profound because asthma is such a crippling condition. Untreated or inappropriately treated, asthma makes it difficult to concentrate at school and work, limits physical activity, and often results in absenteeism. It also reaches beyond the patient to family members, as parents are often required to miss work to care for sick children. The Nation's 20 million asthma patients account for more than 100 million days each year in lost productivity due to absence from school and work, according to the American Academy of Allergy, Asthma, and Immunology. Yearly, asthma patients account for more than 11 million office visits and 500,000 hospitalizations. That is an annual cost of more than $6 billion in direct and indirect medical expenditures. Much of this expense could be avoided with proper asthma management.

Patients who are diagnosed at an early age and whose conditions are well

managed by a primary care physician and an asthma specialist can avoid many of the complications associated with the condition. The ability to secure medications, such as an albuterol inhaler to alleviate attacks and steroids to suppress inflammation, can allow patients to play sports and live normal lives.

But patients who lack access to specialists or can't afford needed medicines will frequently miss school, must forgo physical activity, and are often hospitalized. So the effect of access to affordable, comprehensive care is apparent.

Even so, coverage is not enough. Asthma disparities have multiple interrelated causes, as I have outlined. We often view health disparities through the narrow lenses of genetic differences and differences in medical care. But upstream determinants such as social inequalities and neighborhood conditions can have a significant impact on health outcomes as well.

Even though we know this, national policies have not effectively addressed the problem of health disparities pertaining to asthma. National asthma guidelines that are supported by the National Institutes of Health recommend preventive services and asthma care by a specialist. These guidelines have been found to save money and improve quality of life. But data still show that patients covered by Medicaid are offered less preventive care and fewer referrals to asthma specialists compared to patients in the private insurance market. This matters when it comes to outcomes because specialists are more likely to prescribe controller medications than primary care providers, regardless of the patient's racial or ethnic background. Decreased access to specialists has been associated with higher rates of hospitalization, emergency room use, and mortality. The bottom line is that Medicaid patients have been receiving lower quality treatment for asthma, despite the guidelines put forth by NIH and the American College of Allergy, Asthma, and Immunology.

I am encouraged that there are significant efforts taking place to close the gaps at the local level. In Maryland, the University of Maryland Medical Center has developed an innovative approach to bringing specialized care to children who otherwise would not have access to it. Their BreathMobile program, led by Dr. Mary Beth Bollinger, is an asthma clinic on wheels. It is staffed by a pediatric allergist, a pediatric nurse practitioner, a registered nurse, and a driver who regularly travels to over two dozen schools in Baltimore City. The BreathMobile has provided ongoing care to more than 800 students.

At Johns Hopkins University, the Harriet Lane Clinic provides a comprehensive medical home for asthma patients. Over 90 percent of Harriet Lane's caseload are Medicaid patients, and they are provided with pulmonary specialists, social workers, and case managers who help them secure healthy housing, and seek help from other programs for which they may be eligible.

With the passage of the Affordable Care Act, we have additional tools to address the problem of health disparities at a national level. I helped write into that law the new Institute for Minority Health and Health Disparities at NIH as well as the Offices of Minority Health at CMS and the Agency for Healthcare Research and Quality.

These offices are charged with evaluating, coordinating, and advocating for efforts to eliminate disparities, and they can do much to close the gaps with respect to asthma.

The new Institute will be instrumental in overseeing the coordination of asthma research at the National Heart, Lung, and Blood Institute and ensuring that the focus of biomedical research sufficiently addresses health disparities. We must encourage participation in clinical trials, particularly for underrepresented populations, so that we can speed the discovery of the most effective treatments. Provisions to encourage physicians to practice in underserved areas can improve access to care. The Office at AHRQ can help translate these findings into practice, and the Office at CMS can be instrumental in ensuring that eligible CHIP and Medicaid beneficiaries are enrolled in these programs and that they can receive the best possible care. With the Affordable Care Act, we have the momentum and the tools needed to make a difference in asthma health disparities.

I look forward to returning to the floor soon to explore the issue of health disparities further by focusing on another condition that disproportionately affects minorities.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TOXIC TEA

Mr. LAUTENBERG. Mr. President, everyone is aware of how deeply concerned the American people are about staying in their homes, about having adequate health care, and about providing education and a better path for the lives of their children. But everyone also knows there is a group calling themselves the tea party, and they are busy trying to eliminate those opportunities.

In Wisconsin, a tea party Governor is trying to take away workers' collective bargaining rights to be represented. It is like going into a courtroom without a lawyer.

In Florida, another tea party Governor has killed the critical high-speed rail project by rejecting Federal grants of $2.4 billion to move it along. He threw it away, threw it back—$2.4 billion. Here in Congress, tea party activists have seized control of the Republican side of the aisle. But it is far from a tea party for lots of jobless people and those qualified to study in college but unable to pay the freight. Now that they are in power, we see them brewing a toxic tea—a dangerous concoction that will create pain for our children and ultimately bring shame to our country.

We know cutting critical programs now brings sky-high prices later—in more illnesses and a less educated society. So we look at the future, we say we have to invest in our children, our environment, and medical research. But every time they hear something we need, they say no. They insist on saying no to 200,000 little kids who now go to Head Start Programs that help them in the earliest stages of life, when learning is fun and curiosity abounds. Look here. We see a young child's face through the window. They are holding back 218,000 Head Start kids from learning to learn. They ought to visit these schoolrooms and be upfront with these children and their parents and say, Sorry, America can't help you.

That is not all. Look at what they want to do to higher education. We say we must invest in Pell grants which make the dream of college a reality for millions of disadvantaged Americans. They say, Sorry, your country can't help you. They say no to future employers. Too bad we don't have enough qualified workers, so maybe the employers then can appropriately say, Oh, well, ship the jobs overseas. That is the alternative. Is that what we want America to do? They say no, even though the unemployment rate is twice as large for those who lack a bachelor's degree as for college graduates.

They are unable to look at a simple chart such as this one: There we can see the way the arrow is pointed, with the year 2000 over here and the year 2009 over here, and we see rising tuitions. That is what is happening. Therefore, it tells us how difficult it is for those who don't have the money, the family support financially, and won't able to take advantage of the Pell grants, because they want to slash them. They want to get them off the record as much as they can.

The chart shows between a $10,000 and $15,000 tuition rate in 2001. In 2008 and 2009, we are somewhere close to $20,000 a year. Do we want to force middle-class citizens to take on more debt in order to attend college or slam shut the campus doors on them altogether?

I know the value of government investment in college education firsthand. I came from a poor working-class family. I was a teenager when I enlisted in the Army. My father was on his deathbed. He died and left a 37-year-old widow, myself, and my 12-

year-old sister. Thanks to the GI bill, I attended college at Columbia and later cofounded a company with two other fellows—a company that was started with nothing. We had zero in funding. We put together a few hundred bucks. Now that company employs 45,000 employees in 23 countries, based in New Jersey. Jobs in this country. We built the ''greatest generation'' out of those educational opportunities we had in the military, and we were moving America to the top of the economic ladder.

Government investment in my education made all the difference in my life, and now the 45,000 people who work for ADP. Now Republicans want to take away opportunities such as that from young people. These are people who go into a business, have an education, learn something about how to operate a business, but also learn how we ought to be creating job opportunities and economic development for all in our country.

That is not all the House Republicans have in store for our country. We have to protect women's health, but they won't listen. They want to wipe out funding for title X. Title X offers women access to critical health services, including cervical cancer tests, breast cancer screenings, encouragement to think about family planning and how they are going to get by. But these people on the other side don't want to hear it. They don't care. They don't care that title X offers women access to take care of their health at all times.

Millions of poor women benefit from title X. So killing it will take care away from those who need it most. Title X funding for women's health: House GOP, tea partiers, lots of them, eliminate $1 billion for women's care. They cancel funding for 2 million breast cancer screenings. How cruel is that in this country of ours? If you have money, you can take care of yourself. If you don't, too bad. Well, that is not the way we want to do it. That is not the way we want to do it on this side of the aisle. They are cutting off resources for 2.2 million cervical cancer screenings. What a horror that is. What did these women do to deserve higher health risks during their lifetimes?

But it gets worse. The Republicans are also going after medical research. We say we must invest in finding cures and treatment for millions of children suffering from asthma, diabetes, autism, and pediatric cancer, to name a few of those health-damaging afflictions. To these children they say, You know what. If you don't feel good, maybe you should go to an emergency room with your parents. Stand in line. Too bad. We would like to help, but we can't do that.

The National Institutes of Health is making strides in fighting childhood diseases, but the Republicans want to reduce NIH's ability to do their research by taking $1 billion out of the their budget. If you want to see bravery, look into the eyes of a child struggling with leukemia, and look in the parents' eyes, and you will see tears, often no hope.

Look at what the Republicans want to do to our environment. We say we must invest in the Clean Air Act, a law that spares millions of children from suffering from asthma, and the Republicans say, No can do. They say you can't restrict polluters with regulations. It is too cumbersome. And if you don't like regulations, for instance, take a look at this bothersome thing we have in America called red lights. They are cumbersome. They stop traffic. These people don't want regulations, so we ought to get rid of the red lights and let the traffic move, but watch yourself when you get to the intersection.

Maybe they want to get rid of the air traffic control system. Pilots have to wait for some government bureaucrat to tell them where and when they can fly? What a nerve that is to interfere with these regulations and rules.

The Republicans also want to let mercury back into our air. Mercury is brain poisoning for children. They also want to stop us from restricting soot pollution. Look at the picture. Soot is ugly when it is pouring from a smokestack, but it is even uglier inside a child's lungs. This is a picture we see in many places in our country.

Several years ago I wrote a law called the Right to Know. It says to people who live in areas where there are chemicals present—either manufacturing, chemicals being stored or transported—so people could know if they hear a particular alarm, they have to respond to it and report it to the fire department. We had an incident in Elizabeth, NJ, some years ago when a group of firemen responded to a chemical fire and, in some instances, their protective uniforms melted. That is the kind of situation we want to avoid. We want people to know what is being stored, what is being released into the air in case of a fire.

Finally, when we say we have to clean the water our children drink, the Republican answer is, Oh, we can't handle that. It costs too much. So they cut the funding that helps States protect our drinking water from E. coli, arsenic, and other dangerous substances. The water is not safe for dishwashing, much less consumption.

The House GOP keeps on brewing their toxic tea for America. Ask any parent if they want their kids to drink from that teapot. They don't, and we shouldn't make them do it. We need to gather together for things such as birthday parties and school graduations and lots of smiles instead of their toxic tea parties.

Let's reject the House Republican tea party approach to funding our government. When they say, hey, join us for a cup of toxic tea, we must say, no, we have had this long enough, and we are not going to stand for it anymore.

Mr. President, you know very well that what we are looking at is very constricted budgets. One doesn't have to be an economist or a business executive to know that when there is a financial statement, it comes in two parts. One part is the expenses you need with which to operate. The other is the revenues that permit the companies and the organizations to function. What we are looking at is revenues. I know the Chair shares that position with me. We have discussed it.

Why should people who have the means, who have the good fortune to make lots and lots of money—we saw something this afternoon on a chart that had janitors in New York City at some locations paying a higher tax rate on their earnings than those who earn a million dollars or more. That is not fair. So if we want to do the right thing, we have to introduce revenues into the budget. We have to restore the cuts they want to make on the other side. We want to restore children's health. We want to make sure the NIH is producing as much as it can, and we want to turn America back to a lot more smiles than we have seen.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Kansas is recognized.

Mr. ROBERTS. It is my understanding that at 2:15 morning business expires. I ask unanimous consent to proceed as in morning business for 15 minutes.

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

ASSAULT ON THE NATION'S ECONOMY

Mr. ROBERTS. Mr. President, I rise today to once again speak out against what I consider to be and many others consider to be a regulatory assault on our Nation's economy. I have previously discussed my concerns with regulations having a negative impact on our agriculture community. That was last week. Earlier this week, I spoke about what I consider to be the egregious regulations that are being promulgated by the EPA, or what Senator GRASSLEY calls the ''end of production agriculture agency.''

Today, I rise to talk about health care regulations that patients and providers have brought to my attention. I have listed a number of these regulations in a letter I sent earlier today to President Obama. I ask unanimous consent that it be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, March 10, 2011.

President BARACK OBAMA,
The White House,
Washington, DC.

DEAR PRESIDENT OBAMA: I write you today to express my sincere appreciation for the Executive Order that you issued on January

18, committing all federal agencies to review regulations and remove any that place unreasonable burdens on our nation's business community and/or impact the ability of our economy to grow. I agree that in light of our current economic crisis, establishing a regulatory environment that promotes growth and job creation should be the number one priority for this Congress and Administration. To that end, I would like to offer some suggested areas related to health care that patients and providers have communicated are of the most concern to them, and would urge you and your Administration to consider these and their impact when implementing your Executive Order.

While the majority of this communication will focus on regulations already on the books, I would also like to take this opportunity to share with you what seems to be an even greater concern within the patient, provider and stakeholder community. When discussing regulations in general and your Executive Order more specifically with my constituents and those representing the patient and provider community, the number one concern that I hear is related to a fear of the impact of future regulations. While there is still a large concern with the burden of regulations that have already been issued, I have heard time and time again that there is an even greater concern with the uncertainty of future regulations, especially those regulations for implementing the ''Patient Protection and Affordable Care Act'' (PPACA) and their potential to have a further and greater impact on jobs and the economy. While I regularly hear concerns about the compounding costs related to implementing any and all of these regulations, the specific areas that are mentioned the most include, but are not limited to:

Individual Mandate and related penalties
Employer Mandate and related penalties
Defining Essential Health Benefits and related coverage mandates
Accountable Care Organizations
New taxes and fees including the ''Cadillac Tax'' and new excise taxes on industries
1099 reporting

Additionally, I hear often that patients and providers feel that they do nut have a voice in the regulatory process and, more specifically, that a number of regulations are being issued through a shortened process. This shortened process allows limited or no input from those most affected by the regulations, prior to their implementation, and may result in greater costs and economic impact if changes are necessary based on comments that the Administration receives. It is my understanding that the PPACA rules that have been issued as interim final rules, and therefore with limited input are:

National Provider Identifier
Web Portal Requirements
Early Retiree Reinsurance Program
Coverage of Children to Age 26
Underserved Rural Communities
Grandfathered Health Plans
Pre-Existing Condition Exclusions
Preventive Services
Internal Claims/Appeals and External Review Processes
Pre-Existing Condition Insurance Plan Program
Amendment to Grandfathered Health Plans Rule
Medical Loss Ratio Requirements

While there may have been instances in which a shortened process was necessary or appropriate I would strongly encourage your Administration to limit the use of this regulatory process and take every available opportunity to get feedback from those who would be most affected by these regulations and allow for ample time to review and consider that feedback prior to implementing future regulatory priorities. I would also strongly encourage you to review any comments you have received on these regulations for any concerns that indicate a potential to further our economic crisis.

Without fail in my conversations with patients, providers, advocates, and stakeholders, which include my Kansas constituents, I hear about their concerns with the burden of government ''red tape'' and the impact of regulations on their ability to maintain and grow their businesses. While this is not an exhaustive list, I will share the health care regulations that I have been hearing about the most and would ask you to review them for their potential economic impact and modify or remove them to ensure the least burden on our struggling businesses, individuals, and economy.

It should come as no surprise the regulations that I am hearing the most about are related to the impact of PPACA. Although the full impact of recently passed health care legislation is still uncertain, it is clear that additional employer costs will be substantial, as will the burden of what promises to be extreme complexity in compliance. Already patients, providers and advocates have cited a number of regulations related to PPACA that would have profound impact on jobs and our economy. Specifically:

The ''Preexisting Condition Insurance Plan'' and the concern that it is not being utilized efficiently to provide an option for those unable to afford coverage;

The ''Patients Bill of Rights'' and the concern that it has resulted in the loss of child-only insurance markets in over 20 states;

''Grandfathered'' health plan regulation and a concern that the regulation is drafted too narrowly to allow businesses to keep their current coverage and maintain current costs of coverage and are too cumbersome and don't allow plans to comply with ''the early requirements over a period of time'';

''Medical Loss Ratio'' and the concern that the calculation of the standard will increase cost of care for patients and the concern that it will directly result in lost employment and more specifically the omission of health care fraud work as part of ongoing quality improvement activities;

''Rate Review'' and the concern that this requirement will do nothing to control costs and that there are a number of areas within the rule that could cause significant and negative disruption to States and consumers;

''Annual and Lifetime limits'' and the concern over the impact on businesses and individuals the more than 1,000 waivers already issued will have.

Additionally, I have heard that the combination of the regulations being issued to implement the PPACA statute have resulted in an increase in premiums for individuals and businesses, which as you know results in increased costs and tough choices. Related to this, I am deeply concerned by signals from your Administration that regulations being issued to implement the PPACA statute will not be held under the scrutiny of your Executive Order. I would strongly encourage your Administration to review all of the regulations that have been issued, past, present and future, while considering their impact on our economy and jobs.

Finally, patients and providers have expressed a number of concerns related to the regulatory burdens that they face. Generally, they have asked that while the Administration may measure indirect benefits for regulatory proposals, that there is a lack of willingness to analyze and make publicly available the indirect costs to consumers, such as higher energy costs, jobs lost, and higher prices and would request that a reasonable estimate of indirect impact and the methodology used in determining those impacts be made available. They would prefer that agencies be accountable for providing a balanced statement of costs and benefits in public regulatory proposals. Also, I have heard that a number of patients and providers are being buried by the paperwork burden of complying with all of the regulations. Specifically, I have heard about the compliance burden of having to adjust to the sheer volumes of changes that the Administration issues every year and the impact on providers to do their jobs and provide care for patients.

The regulations that I have been hearing about their negative economic impacts and would suggest you review are:

The 2011 Medicare Physician Fee Schedule Final Rule, which requires that laboratory requisition forms are signed by the ordering physician. This rule could have potentially serious implications on patient care and business practice. Under this new policy, laboratories will face a difficult decision when they receive a patient specimen with an unsigned requisition. Laboratories will have to decide not to provide their needed services and therefore be unable to provide a physician the information necessary to make health care decisions—or—provide the services without a guarantee of payment and then work to obtain signatures in order to submit claims to Medicare. As you can imagine, in the former situation, care may be significantly delayed; in the latter scenario the laboratories who serve a high percentage of Medicare beneficiaries could spend a large amount of time contacting providers to gather the required signatures and could see their payments delayed or face the possibility of being unable to receive payment.

On November, 17, 2010, CMS issued a final rule, as directed by PPACA (P.L. 111–148). The rule conditions payment for home health and hospice services based upon a face-to-face encounter between patients and their physicians or certain non-physician practitioners prior to certification for home health or hospice services. This is resulting in burdensome requirements for our rural home health and hospice patients.

Physicians Assistants are an important part of care for rural communities especially hospice and palliative care; however, they are often not considered when drafting regulations related to providers allowed to provide services.

Anti-Switching Rule in Medicare's Competitive Bidding Program (CBP) for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS). Specifically, the proposal to enforce the rule in subsequent rounds of the CBP, but not Round 1, may compromise beneficiary access to appropriate diabetes testing supplies and leave beneficiaries vulnerable to pressure from suppliers to switch testing systems.

DMEPOS Competitive Bidding implementation continues to be a concern. We originally had over 400 DME providers in KS; however, now that Round 1 has been implemented I am concerned that patients, especially in rural areas, are facing issues related to access.

Two sets of regulations and guidance—one for hospices and one for rural health clinics—that may have resulted in an oversight in the Medicare billing regulations is creating obstacles for individuals in rural, underserved communities to receive hospice care. In these communities, the primary care physicians are often (and sometimes exclusively) members of Medicare-certified ''rural health clinics.'' However, when a hospice patient's attending physician also happens to be a rural health clinic physician, Medicare

is not reimbursing either the physician or the clinic for the physician's services.

Health IT rules related to implementing the Health Information Technology for Economic and Clinical Health (HITECH) Act which I am hearing are creating uncertainty and confusion, jeopardizing the goal of the rapid adoption of electronic health records. Without policy changes, innovation will be marginalized and job creation threatened.

Privacy and security regulations adopted by HHS under the Health Insurance Portability and Accountability Act (HIP AA) and the HITECH Act expand the accounting of disclosures requirement to include all disclosures, even daily, routine disclosures. While patient safety and privacy should be a high priority, businesses are concerned that maintaining detailed records would require an overwhelming amount of information to be stored.

The short amount of time to comply with new ICD10 and 5010 coding requirements impose an incredible administrative burden that I am hearing will increase administrative costs significantly.

CMS regulations that restrict the ability of non-physician practitioners to meeting the CMS requirement for supervision for cardiac and pulmonary rehab. These rules are limiting access to cardiac and pulmonary rehab, particularly in rural and Critical Access Hospitals.

Clearly this is not a comprehensive list, but it represents a number of areas that patients, providers and constituents have expressed concerns on.

Again, thank you for the opportunity to share my recommendations on what rules and regulations pose serious negative consequences to the growth of our nation. As the 112th Congress gets under way, I will continue to identify to your Adminitration regulations that handicap American businesses and halt American job creation. It is my hope that we can create a regulatory environment that provides American businesses with the necessary tools to hire and thrive in this global market.

Sincerely,

PAT ROBERTS,
U.S. Senator.

Mr. ROBERTS. As I have already discussed on the Senate floor, an Executive order was issued by the President on January 18. It was a good order. I applauded that order. It committed all Federal agencies to review regulations and then to try to remove any that placed unreasonable burdens on our Nation's businesses and/or impact the ability of our economy to grow, to recover.

I agree that, in light of our current economic crisis, establishing a regulatory environment that promotes growth and job creation should be the No. 1 priority for this Congress and the administration. I applaud what the President said when he issued the Executive order—that there are some regulations that are duplicative, costly, and unnecessary and, as he said, downright dumb. There was loud applause in farm country, manufacturing, health care, education—you name it. However, after reviewing the Executive order, I remind my colleagues that I was left—and I hope if you read it you are left—with some larger concerns. Specifically, the order left open a number of very large loopholes. It was an Executive order without teeth.

When I was in Kansas over this last work period, I talked to virtually all of our Kansas patients, providers, and advocates about the President's Executive order and my legislation, which is called the Regulatory Reform for Our Economy Act. I held a stakeholder roundtable in Topeka. I held a roundtable in our State capitol, in order to get feedback from patients and provider groups on their thoughts related to health care reform. I was not surprised to hear that every representative at that meeting had a concern with regulations, but the sheer volume of regulatory concerns as seen by my staff and myself was truly extraordinary.

I was already aware of regulations, such as those put forth by the Department of Health and Human Services, along with the Department of Labor and Treasury, that have resulted in the child-only insurance market effectively disappearing in 20 States. Which I believe is the result of overregulation or overrequirements.

I have already sent letters to the administration detailing my concerns with regulations, such as—stick with me now—first, the 2011 Medicare physician fee schedule final rule, which requires that laboratory requisition forms are signed by the ordering physician. This rule could have potentially serious implications on patient care and business practice.

Second, on November 17, 2010, CMS, the Center for Medicare and Medicaid Services, issued a final rule which, as required by the new health care law—the acronym for that is PPACA—conditions payment for home health and hospice services based upon a face-to-face encounter between patients and their physicians or certain nonphysician practitioners prior to certification for home health or hospice services. On top of about a $11 billion cut to hospice, which is rather incredible, this is resulting in burdensome requirements for our rural home health and hospice patients. For those who need this help the most, this is truly hard to understand.

Third, the antiswitching rule in Medicare's competitive bidding program—the acronym is CBP; there is an acronym for everything—for durable medical equipment, prosthetics, orthotics, and supplies. Specifically, that proposal to enforce the rule in subsequent rounds of the competitive bidding program, but not round one, may compromise beneficiary access to appropriate diabetes testing supplies and leave beneficiaries vulnerable to pressure from suppliers to switch testing systems.

I am going to try to get rid of the gobbledygook and say that during the initial round of competitive bidding for medical equipment, some of the suppliers didn't even know there was an initial round of competitive bidding. In Kansas City, there were 424 suppliers, and 20 submitted bids this time around. We delayed it to this year because it was so onerous. Then this year came around and CMS selected 20. What happened to the other 404? What happened to the people who depended on pharmacists and home health care providers for that walker, that crutch, or whatever they need—or oxygen tank, for that matter? We are left with huge holes in the home health care industry and a need for providing DME equipment.

I was surprised to hear that every representative at this stakeholder meeting—and all representative groups were invited, including hospital administrators, doctors, nurses, pharmacists, and hospice folks. I believe it was the first time they met at the same time. I was surprised to hear that every representative at this stakeholder meeting to discuss the impacts of health care reform had concerns with regulations, some of which are buried in the volumes of regulations being put out every day, and many that defy comprehension.

When discussing the President's Executive order and regulations with my constituents and those representing the patient and provider community, the No. 1 concern I heard was a fear not just of the current regulations, which they are trying to keep up with, but of future regulations.

While there is considerable concern with the burden of regulations that have already been issued, I heard time and again that there is an even greater concern with the uncertainty of future regulations, especially those implementing the Patient Protection and Affordable Care Act, or PPACA, and their potential to have further and greater impact on jobs and the economy and health care—even greater than the impacts we discussed during the health care reform debate. At the stakeholder meeting we had meaningful dialog about that. This is akin to a second health care reform earthquake. If you are a health care provider, hang on.

Additionally, I have heard that the combination of the regulations being issued to implement the PPACA statute has resulted in an increase in premiums—to repeat that, an increase in premiums, not cost savings—for individuals and businesses, which, as you know, results in increased costs and very tough choices.

Related to this, I am concerned by reports that I am hearing that staff within the administration have signaled that regulations being issued to implement the PPACA statute already comply with the President's Executive order and would not need to be included in a review. Does that mean all the health care regulations pouring out of CMS are not going to be subject to the President's Executive order? What is that? This is one of the biggest worries we have throughout the country regarding health care, and the President issues an Executive order and says let's take a look. Do the costs outweigh the benefits? Are they duplicative, unnecessary, or just plain dumb?

Those are his words. CMS is exempted? Health care is exempted? That is unreal.

I believe otherwise, and this belief is being verified by personal stories from Kansans. In my letter to the President today, I strongly encouraged him to review all of the regulations that have been issued, past, present, and future, while considering their impact on the economy and jobs. Sure, it would be a tough job. It is time, with the ''Katrina'' of regulations pouring out of the various agencies in Washington.

Understanding this, last month, I, along with Senators BARRASSO and COATS, and with the support of 38 Senate colleagues—have introduced the Regulatory Responsibility for Our Economy Act, S. 358. I urge my colleagues on the other side, who I am going to engage in the next week. We will go face to face and I will try to convince you.

My bill moves to codify and strengthen President Obama's January 18 Executive order that directs agencies within the administration to review, modify, streamline, expand, or repeal those significant regulatory actions that are, in the President's words, duplicative, unnecessary, overly burdensome, or would have significant economic impacts on Americans. I have given President Obama credit for saying that, but I don't give him credit for including the loopholes.

While I agree in principle with the President that we need to take a serious look at both current and proposed Federal regulations, I don't think his Executive order actually does what it purports to do. I have some loopholes listed. In Dodge City, where I come from, coming close to the truth is coming pretty close, but it still ain't the truth. I think this is where this fits.

The Executive order states—and I want everybody in the Senate, if you are listening, or if your staff is listening, provide this to your member. Figure this out:

In applying these principles, each agency is directed to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.

That is a good thing.

Where appropriate and permitted by law, each agency may consider (and discuss qualitatively)—

and this is the part where I had the most concern, and I hope somebody can explain it.

values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

What is that? ''But,'' as the Wall Street Journal captured so eloquently in their response to President Obama's editorial, ''these amorphous concepts are not measurable at all.'' They are not.

On the surface, I feel this language has the potential to be a very large loophole—probably is already. I believe this is the loophole being used to exempt the PPACA regulations from this review. That is unfortunate. In fact, upon reading and rereading it, it could be better described as gobbledygook.

As a matter of fact, it got my gobbledygook award of the month this past month. My legislation would close the loopholes in President Obama's Executive order and would close other existing loopholes, including those the administration has been using—or the Secretaries for the various agencies have been using—to bypass valuable stakeholder input on regulations. In fact, I hear often that patients and providers believe they do not have a voice in the regulatory process.

More specifically, I hear that a number of regulations are currently being issued through a shortened process which allows limited or no input from those most affected by the regulations prior to their implementation—that is wrong—and they may result in an even greater confusion and burden which then results in greater costs and economic impact, especially if changes are necessary based on later comments that the administration does receive.

It is my understanding the PPACA rules that have been issued as interim final rules and, therefore, with limited input—and they will probably become final—are the national provider identifier, Web portal requirements, Early Retiree Reinsurance Program, coverage of children to age 26. Underserved rural communities, grandfathered health plans, preexisting condition exclusions, preventive services, internal claims/appeals and external review processes, Pre-existing Condition Insurance Plan Program, amendment to grandfathered health plans rule, and medical lost ratio requirements. That is a bunch of them—all regulations through a shortened process.

While there may have been instances in which a shortened process was necessary or appropriate, this lengthy list is why passage of my legislation is so critically important.

I ask the Presiding Officer if I have exceeded my time. If I have, I would like 2 additional minutes to close.

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. ROBERTS. May I have 2 additional minutes, and I will close.

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

Mr. ROBERTS. In my letter to the President today, I have encouraged the administration to limit the use of this shortened regulatory process and take every available opportunity to get feedback from those who would be most affected by these regulations—that just makes sense—and allow for ample time to review and consider that feedback prior to implementing the future regulatory priorities. We are going to have better regulations if, in fact, you ask folks: Is this going to work? Maybe tweak it, maybe repeal it. Who knows. The President himself said that.

In addition, I have encouraged the administration to review any comments received on these regulations that have already been issued for any concerns that indicate a potential to further our economic problems and crises.

In closing, I invite my friends on both sides of the aisle to sign on as a cosponsor of my legislation, realizing the immense opportunities it creates for meaningful review and possible revocation of regulations counter to our Nation's growth.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his suggestion of the absence of a quorum?

Mr. ROBERTS. I will be delighted to.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF MAX OLIVER COGBURN, JR., TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Max Oliver Cogburn, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I wish to talk about Max Oliver Cogburn, Jr., judicial nominee for the U.S. district court in the Western District of North Carolina.

Judge Cogburn was nominated for the second time by President Obama on January 25, 2011, and was favorably reported out of the Judiciary Committee by voice vote on February 3, 2011.

It is extremely important to me that North Carolina has highly capable representation on our Federal courts. Judge Cogburn is exactly the type of legal mind we need as a judge on North Carolina's Western District Court.

Since coming to the Senate, I have worked to increase the number of North Carolinians on the Federal judiciary. Unfortunately, it has turned out to be a rather slow and arduous process. After months of making the case that North Carolina deserves more representation on the Fourth Circuit last year, Judges Jim Wynn and Al Diaz were confirmed unanimously by the Senate.

North Carolina is better off because Judges Jim Wynn and Al Diaz—highly qualified, experienced, and fairminded judges—are now serving on the Fourth Circuit. It is my hope that very soon North Carolina will have another Federal judge with the confirmation of

Judge Cogburn. All of these judges have received bipartisan support, and I am pleased that Senator BURR has joined with me in recommending these judges.

I recommended Judge Cogburn because of his distinguished record as a jurist and attorney in both the public and private sectors. After earning degrees from Samford University Cumberland School of Law and UNC Chapel Hill, he entered private practice.

Judge Cogburn has worked in private practice off and on since 1976, handling criminal felonies and misdemeanors, civil torts, domestic cases, and corporate work. Judge Cogburn also served as an assistant U.S. attorney from 1980 to 1992 where he prosecuted murder cases, drug trafficking, voter fraud, and a wide variety of Federal crimes.

During his time with the U.S. Attorney's Office, Judge Cogburn served as the lead attorney of the Organized Crime and Drug Task Force, as well as the chief assistant U.S. attorney.

From 1995 to 2004, Judge Cogburn served as a magistrate judge on the U.S. District Court for the Western District of North Carolina. As a magistrate judge, he ruled on cases involving sexual harassment, racial discrimination in employment, fraud, age discrimination, products liability, and medical malpractice.

Judge Cogburn has received the American Bar Association's highest rating of ''well-qualified.'' He has the skills and legal experience this position requires.

I am pleased to speak about Judge Cogburn's outstanding qualifications to serve on the U.S. District Court for the Western District of North Carolina. I am confident that Judge Cogburn will serve on the bench with clarity and distinction. I have worked steadily to see that he is confirmed quickly. I look forward to casting that vote shortly. I ask my Senate colleagues to join me and Senator BURR in support of Judge Cogburn's nomination and vote in favor of his confirmation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I also wish to talk about this historic day. It is historic because we are actually going to confirm Max Cogburn faster than it took for the nomination to come through. Today, in this austere body, that is an accomplishment. But in large measure it says a lot about the President's nominee.

Max Cogburn has been nominated to the Federal bench in North Carolina's Western District. He is an excellent choice and I believe will be a needed but great addition to the court.

The Cogburn family roots are in western North Carolina's mountains, and they run deep. It is an impressive family history, but Max has made a name for himself in his legal career and his public service: Assistant U.S. attorney, chief assistant U.S. attorney, magistrate judge, and in private practice.

In addition to his legal career, which certainly qualifies him for the bench in his own right, the Cogburn's other business cannot help but be a benefit. You see, he and his family run a dude ranch outside of Asheville, NC.

I thank the Members of the Senate Judiciary Committee, as I said, for acting so quickly on this nomination. Nominees to the Federal bench are bestowed with a high honor but also a high amount of uncertainty and stress as they and their families go through a sometimes never-ending process. I am grateful this process has been relatively short and sweet for Max.

He was nominated in May of 2010, had his hearing during the lameduck session, and was reported out in December, still during the lameduck session. I am sorry this body missed the opportunity at that time to finalize his confirmation. He did not get a vote in the last Congress, but that, of course, is not unusual for a nominee of either party who is reported by the committee late in the process.

He was reported out again in February and is actually getting a vote in less time, as I said, than it took the White House to nominate him, especially following the departure and retirement of Judge Thornburg.

I appreciate the Judiciary Committee's commitment to move quickly. I join my colleague, Senator HAGAN, in encouraging all of our colleagues to unanimously support this appointment to the Federal bench.

I might say, in conclusion, the underlying reason Max Cogburn should get the overwhelming support of all the Members of the Senate and should be the newest member of our court in the Western District is because Max Cogburn is a good man. He comes from good stock, but on his own he is a good man and a great American. Today he deserves this House to unanimously support this nomination.

Mr. LEAHY. Mr. President, I congratulate Senator HAGAN on the Senate's consideration of the nomination of Max O. Cogburn.

Max O. Cogburn is nominated to sit on the U.S. District Court for the Western District of North Carolina, the very district where he has served for 9 years as a magistrate judge and for 12 years as an assistant U.S. attorney. Mr. Cogburn is currently a partner in the Asheville, NC, law firm of Cogburn and Brazil, and also serves as an appointed member of the North Carolina Education Lottery Commission.

This nomination could—and in my view should—have been considered and confirmed last year. Instead, it was unnecessarily returned to the President without final Senate action, despite the nominee's qualifications and the needs of the American people to have judges available to hear cases in the Federal courts. The President has had to renominate him, the Senate Judiciary Committee has had to reconsider him and now, finally, the Senate is being allowed to consider him.

I suspect the Senate will now confirm him unanimously or nearly so. He has the support of both his home state Senators, one a Democrat and the other a Republican. The nomination of Max Cogburn to fill a vacancy in the Western District of North Carolina is one that was reported without opposition by the Judiciary Committee both last year and, again, earlier this year.

Besides this nomination, there are two nominees ready to fill vacancies in the District of Columbia. Recently, Seth Stern reported in Congressional Quarterly criticism from Chief Judge Lamberth of the U.S. District Court for the District of Columbia, who warned that the breakdown in the judicial confirmation process is ''injuring the country.'' The two judicial nominees to fill longstanding vacancies for his court are still waiting for final consideration by the Senate. They, too, were reported unanimously by the Judiciary Committee last year and again this year. They, too, are being needlessly delayed. The Senate should consider and confirm them without further delay. I will ask that a copy of the article be printed in the RECORD.

Also reported from the Judiciary Committee and before the Senate are nominees to fill a judicial emergency vacancy in New York, a judicial emergency vacancy on the Second Circuit and a judicial vacancy in Oregon. They should be debated and confirmed without delay, as well. Earlier today, the Judiciary Committee moved forward to vote on two additional Federal circuit nominees and four additional district court nominees. They are now available to the Senate for its consideration, as well.

After the confirmation of Mr. Cogburn, there will be 11 judicial nominees left waiting for Senate consideration having been reviewed by the Judiciary Committee. We are holding hearings every two weeks and hope finally to begin to bend the curve and start to lower judicial vacancies across the country. We can do that if the Senate continues to consider judicial nominations in regular order as they are reported by the Judiciary Committee.

Federal judicial vacancies around the country still number too many and they have persisted for too long. That is why Chief Justice Roberts, Attorney General Holder, White House Counsel Bob Bauer and many others—including the President of the United States—have spoken out and urged the Senate to act.

Nearly one out of every eight Federal judgeships remains vacant. This puts at serious risk the ability of all Americans to have a fair hearing in court. The real price being paid for these unnecessary delays is that the judges that remain are overburdened and the American people who depend on them are being denied hearings and justice in a timely fashion.

Regrettably, the progress we made during the first 2 years of the Bush administration has not been duplicated, and the progress we made over the 8 years from 2001 to 2009 to reduce judicial vacancies from 110 to a low of 34 was reversed. The vacancy rate we reduced from 10 percent at the end of President Clinton's term to less than 4 percent in 2008 has now risen back to over 10 percent. In contrast to the sharp reduction in vacancies we made during President Bush's first 2 years when the Democratically controlled Senate confirmed 100 of his judicial nominations, only 60 of President Obama's judicial nominations were allowed to be considered and confirmed during his first 2 years. We have not kept up with the rate of attrition, let alone brought the vacancies down. By now they should have been cut in half. Instead, they continue to hover around 100.

The Senate must do better. The Nation cannot afford further delays by the Senate in taking action on the nominations pending before it. Judicial vacancies on courts throughout the country hinder the Federal judiciary's ability to fulfill its constitutional role. They create a backlog of cases that prevents people from having their day in court. This is unacceptable.

We can consider and confirm this President's nominations to the Federal bench in a timely manner. President Obama has worked with Democratic and Republican home state Senators to identify superbly qualified, consensus nominations. None of the nominations on the Executive Calendar are controversial. They all have the support of their home State Senators, Republicans and Democrats. All have a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution.

During President Bush's first term, his first 4 tumultuous years in office, we proceeded to confirm 205 of his judicial nominations. We confirmed 100 of those during the 17 months I was Chairman during President Bush's first 2 years in office. So far in President Obama's third year in office, the Senate has only been allowed to consider 71 of his Federal circuit and district court nominees. We remain well short of the benchmark we set during the Bush administration. When we approach it we can reduce vacancies from the historically high levels at which they have remained throughout these first three years of the Obama administration to the historically low level we reached toward the end of the Bush administration.

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which I referred.

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

[From CQ Today Online News—Legal Affairs, Feb. 28, 2011]

JUDGES: 'TOTALLY BROKEN' CONFIRMATION PROCESS CAUSING 'DIRE' CASE BACKLOGS

(By Seth Stern)

Two federal judges criticized the slow pace of judicial confirmations Monday, saying cases are backlogged and judges overwhelmed at the trial court level.

Speaking at a Brookings Institution event on judicial nominations, Royce Lamberth, the chief judge of the U.S. District Court for the District of Columbia, said the confirmation process is ''totally broken'' and that the pattern of ''paybacks and the bickering have been thoroughly bipartisan.''

Lamberth, who was appointed by President Ronald Reagan in 1987, raised similar concerns in a speech in March 2009, just after the start of the Obama administration. But he said he was increasingly concerned by the delays in the confirmation of federal trial judges, which has only worsened in the two years since.

''I say to both Democrats and Republicans, you are injuring the country,'' Lamberth said.

Lamberth was joined on the panel by William Furgeson Jr., a Texas district court judge who said judges' growing caseloads resulting from the vacancies in his district in western Texas are a ''desperate problem'' that results in ''assembly-line justice.''

Furgeson called the situation on the border ''dire,'' adding it was a ''giant mystery'' why senators now fight over trial court judges.

Chief Justice John G. Roberts Jr. had also emphasized the ''persistent problem'' of vacancies on the federal bench in his annual report on the state of the judiciary released in December.

''Each political party has found it easy to turn on a dime from decrying to defending the blocking of judicial nominations, depending on their changing political fortunes,'' Roberts wrote in the report.

Only 67 percent of Obama's district court nominees were confirmed during his first two years in office, compared to 92 percent for George W. Bush and 87 percent for Bill Clinton, according to statistics compiled by Russell Wheeler, a visiting fellow at the liberal-leaning Brookings Institution, and 83 of 677 district court seats were vacant as of Feb. 25.

The Senate has confirmed six district court judges so far this year, including two more Monday: Amy Totenberg and Steve C. Jones to the Northern District of Georgia.

On Wednesday, the Senate Judiciary Committee will hold a second confirmation hearing for President Obama's most controversial judicial nominee: Goodwin Liu, who was first nominated for a seat on the U.S. Court of Appeals for the 9th Circuit in 2009.

The University of California law professor has faced intense criticism from Republicans for his liberal views and for repeatedly amending the materials he has provided to the Judiciary Committee.

Mr. LEAHY. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to speak as in morning business, with the understanding that I will yield the floor if anyone comes to the floor to speak on the Cogburn nomination.

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

BELARUS RESOLUTION

Mr. LIEBERMAN. Mr. President, I rise to speak in support of a bipartisan resolution that has been submitted by our colleague, Senator DURBIN, and of which I am proud to be a cosponsor, which concerns the situation in the country of Belarus.

As the winds of democratic change have been sweeping now across North Africa and the Middle East ousting autocratic rulers who have been long entrenched there, it is important for us to remember there is still one remaining dictatorship in Europe, and that is in the country of Belarus.

In the 20 years since the fall of the Soviet Union, Belarus's neighbors to the north and west have become successful, prosperous democracies. But, tragically, while Poland, Lithuania, and Latvia have broken the chains of tyranny and joined the flagship institutions of the Euro-Atlantic world, NATO, and the European Union, Belarus and its people have been left behind—held back by its despot ruler Alexander Lukashenko, who has ruled his country through repression and rigged elections for nearly two decades.

Some in the United States and Europe had hoped in recent years that Lukashenko might be prepared to open up Belarus and change his ways. These hopes, however, came to an abrupt end on December 19 of last year when Belarus held Presidential elections. As it quickly became clear that the votes in those elections were neither free nor fair, thousands of Belarusian people took to the streets of Minsk in protest, and the Lukashenko regime responded with violence and brutality.

This resolution would put the Senate on record in response to the crackdown launched in Belarus on December 19—a crackdown, I add, that continues in significant ways to this day.

More than 600 people were swept up by Belarusian security forces on election day and its immediate aftermath—among them journalists, civil society representatives, political activists, and several opposition Presidential candidates. It is hard to believe this kind of behavior still exists in this world today. The detained continue to be denied access to family, lawyers, medical treatment, and open legal proceedings, while their relatives and attorneys endure harassment by Lukashenko's security forces.

This resolution will do several significant things. First, it will send a strong and clear message to Lukashenko that his actions are unacceptable and will carry significant costs. It tells him we do not consider the December 19 election to be legitimate and that he is, therefore, not the legitimately elected leader of Belarus, and that there should be new elections that are free, fair, and meet international standards. I would add that the European Parliament passed a resolution not long ago that says precisely the same thing that I have just said here in the Senate.

Perhaps even more important, this resolution will send a message to the people of Belarus who were struggling to secure their fundamental freedoms.

It tells the dissidents there that we have not and will not forget them or their cause; that we remember their names, in fact, and we will stand in solidarity with them until they achieve their goal, which is a free and democratic Belarus.

Last month, Senator MCCAIN and I and others traveled to Vilnius, Lithuania, where we met with Belarusian students and opposition military leaders. This was an extremely powerful experience for all of us. We heard directly from them about the repression taking place in their home country. The substance of the resolution Senator DURBIN has written and submitted, with cosponsorship by several of us, reflects what the Belarusians we met with in Vilnius told us, as well as what we heard here in Washington from other dissidents from that country.

The resolution specifically calls for the immediate and unconditional release of all political prisoners in Belarus. It also urges a tightening of the sanctions against Lukashenko, and we are urging the Obama administration to offer the strongest possible material and technical support for Belarusian civil society, and that includes, of course, the political opposition.

This resolution is broadly bipartisan in its sponsorship and reflects what I think is a wide consensus in the Senate about the situation in Belarus today. I know there are some who may look at the resolution and say it is merely symbolic, who say there is nothing we can do to help the people who are living such repressed and unfree lives in Belarus, and that we should simply accept the reality of Lukashenko's dictatorship after all these years. But if the historic events in Tunisia and Egypt have taught us anything about our foreign policies, it is that the United States does best when we stand with our values and with the people who share them—and that what appear to be even the most impregnable regimes can fall with remarkable speed.

Obviously, I cannot say exactly when Belarus will be free, but I have no doubt that someday it will be free. I am confident the future of Belarus belongs not to Lukashenko and his cronies but to the people of that great country—to the dissidents who are in jail, to the students we met in Vilnius last month, to the civil society activists who are being harassed by the KGB as we speak. It belongs to the people in Belarus who want a future of democracy and economic opportunity, not Soviet-style repression.

This resolution—put together, again I say with thanks, by Senator DURBIN—puts the Senate on the side of the people of Belarus and against the Lukashenko regime that is oppressing them. I hope we can come together and swiftly pass this bipartisan measure.

I thank the Chair, and I yield the floor to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, soon we will be voting on another nominee for district court. We continue our rapid pace in which the Senate has been confirming President Obama's judicial nominees. This vote will mark the 11th judicial nominee to be confirmed this Congress. That is more than double the number confirmed in the 108th Congress, which only saw five confirmations at this point. Obviously, actions speak louder than words. So far, our actions have had concrete results.

The Judiciary Committee met this morning and reported six more judicial nominees. That puts the total at 22 nominees reported favorably so far. We continue to hold hearings every 2 weeks and have heard from 31 nominees currently pending before the Senate. As I have said in the past, we will continue to move consensus nominees through the confirmation process. However, we will continue to do our due diligence in evaluating the nominees. What we will not do is put quantity confirmed over quality confirmed. These lifetime appointments are too important to the Federal Judiciary and the American people to allow rubberstamping.

Just this past Monday, the Senate confirmed three district court judges. In his statement for the record, the chairman of the committee, Senator LEAHY, stated:

> Nearly one out of every eight Federal judgeships is vacant. This puts at serious risk the ability of all Americans to have a fair hearing in court.

However, what the chairman neglected to mention is the fact that President Obama has not put forth a nominee for every vacancy the court currently faces. In fact, of the 95 judicial vacancies, the Senate only has 45 nominees. That is 53 percent of vacancies without a nominee from the White House.

Today, we vote on a nominee to sit on the Western District of North Carolina court. While this is an important vacancy, and a vacancy we need to fill, it is not a judicial emergency. However, there is a judicial emergency in the Eastern District of North Carolina. That seat, which has been vacant since 2005, does not have a nominee currently pending. President Bush nominated Thomas Alvin Farr to that seat twice, but he was never afforded a hearing, let alone an up-or-down vote. I am happy this side of the aisle is not repeating the same regrettable treatment Mr. Farr received.

With regard to Mr. Cogburn, the nominee we will be voting on, the American Bar Association has rated him ''majority well qualified, minority qualified.'' He received his B.A. from the University of North Carolina at Chapel Hill and his juris doctorate from Cumberland School of Law. Mr. Cogburn has practiced law in many capacities. Through his work in private practice, he has worked on a wide range of issues, including criminal litigation, personal injury, civil litigation, and a significant amount of mediation.

As an assistant U.S. attorney for over a decade, Mr. Cogburn gained substantial appellate experience. While there, he also served as drug task force attorney and chief assistant U.S. attorney. Mr. Cogburn also holds judicial experience. He was appointed to serve an 8-year term as a U.S. magistrate judge by the U.S. District Court for the Western District of North Carolina.

After careful evaluation, the Judiciary Committee reported this fine nominee by voice vote on February 3, 2011. I congratulate Mr. Cogburn and his family on this important lifetime appointment and his willingness to continue in public service.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Mr. ENSIGN. Madam President, I ask unanimous consent that all time be yielded back in order to start the voting.

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

Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Max Oliver Cogburn, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina?

The clerk will call the roll.

The assistant editor of the Daily Digest called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from New Mexico (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mrs. HUTCHISON) and the Senator from Oklahoma (Mr. INHOFE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 38 Ex.]

YEAS—96

Akaka	Cantwell	DeMint
Alexander	Cardin	Durbin
Ayotte	Carper	Ensign
Barrasso	Casey	Enzi
Baucus	Chambliss	Feinstein
Begich	Coats	Franken
Bennet	Coburn	Gillibrand
Bingaman	Cochran	Graham
Blumenthal	Collins	Grassley
Blunt	Conrad	Hagan
Boozman	Coons	Harkin
Brown (MA)	Corker	Hatch
Brown (OH)	Cornyn	Hoeven
Burr	Crapo	Inouye

Isakson	McCaskill	Rubio
Johanns	McConnell	Sanders
Johnson (SD)	Menendez	Schumer
Johnson (WI)	Merkley	Sessions
Kerry	Mikulski	Shaheen
Kirk	Moran	Shelby
Klobuchar	Murkowski	Snowe
Kohl	Murray	Stabenow
Kyl	Nelson (NE)	Tester
Landrieu	Nelson (FL)	Thune
Lautenberg	Paul	Toomey
Leahy	Portman	Udall (CO)
Lee	Pryor	Vitter
Levin	Reed	Warner
Lieberman	Reid	Webb
Lugar	Risch	Whitehouse
Manchin	Roberts	Wicker
McCain	Rockefeller	Wyden

NOT VOTING—4

Boxer	Inhofe
Hutchison	Udall (NM)

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate shall resume legislative session.

The majority leader.

MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up 10 minutes each.

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

ORDER OF BUSINESS

Mr. REID. There will be no further rollcall votes this week. We will have some votes Monday night. Everyone should be aware of that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

IN MEMORY OF KATE PUZEY

Mr. ISAKSON. Madam President, I rise to acknowledge the second anniversary of a tragic event that happened on March 11, 2009, in the nation of Benin in Africa. On that tragic day, a young lady by the name of Kate Puzey was tragically murdered in her sleep in her house at night.

Kate Puzey was a Peace Corps volunteer from Georgia, who went to Benin with all the dreams, hopes and aspirations of the program John F. Kennedy created over a half century ago. She had served there for months. She was teaching young African children. She was sharing wisdom. She was sharing knowledge. She was sharing her love of mankind. She was representing the United States in the way the Peace Corps intended it.

Unfortunately, her life was lost. I did not know Kate Puzey before her death. I only know her after her death. But I know her through her parents, through her schoolmates, and through her fellow Peace Corps volunteers in Africa who told me the story of Kate Puzey, and also, tragically, stories of other Peace Corps volunteers who have lost their lives or have sacrificed in the service of our country.

Tomorrow night, at 6:30, on the steps of the Capitol, there will be a candlelight vigil, acknowledging the second year anniversary of the death of Kate Puzey. Kate's mother will be here, as well as Peace Corps volunteers, as well as people from the Peace Corps organization. It will be a solemn moment, but it will also be a very sacred moment.

As the ranking member of the Africa Subcommittee, I have traveled to Africa on a number of occasions, and I have been in a number of African countries. On each visit, I arrange either a breakfast or a lunch, where I host the Peace Corps volunteers from the United States in that country.

Without exception, and in every case, these are the finest of Americans.

Just 2 years ago, when I was in Tanzania, I met a couple—73 and 72 years old—who in their retirement decided they wanted to give back and help their country and serve their mankind. They volunteered to go to Tanzania and build a library where there was not even a library, a book or a school, and they built it.

In Kenya, I visited with young people who went to Kenya to help carry the message of democracy, to help share, in the terrible slum of Kibera, the promise and hope of education, of good nutrition, of knowledge, of hard work, and of democracy.

We as a country are blessed to have men and women who serve us in many capacities—those who may serve in the House or the Senate, those who serve in the branches of the military overseas in harm's way—but equal to their service is the service of our Peace Corps volunteers. Kate Puzey is an example of what those Peace Corps volunteers do—at its height.

When I attended her funeral, I sat and listened, for over 2 hours, to her fellow volunteers, her former classmates tell about the Kate Puzey they knew: the academic genius, the committed volunteer, the person who loved life and loved people and wanted to share that love wherever she could.

The volunteers in Benin told of her countless sacrifices to help young people and children in their troubled land, in their difficult country, to understand better their life's future and to not look to poverty as a lifetime of shackles but to look to opportunity as a lifetime of hope.

Tomorrow night, when the vigil takes place on the steps of the Capitol, I will not be here, unfortunately, but I will be saying a special prayer for the life of Kate Puzey, for her family, and for what she and all volunteers who have sacrificed in the Peace Corps have done for the United States of America, and, better than that, for mankind.

We have many great people to be thankful for in this world, but tomorrow, at 6:30 p.m., on the steps of the Capitol, there will be a pause to recognize the life, the legacy, and the sacrifice of Kate Puzey and I will be there in spirit and I will be with her in prayer.

I yield back and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RESTORING DISCIPLINE TO THE BUDGET PROCESS

Mr. INOUYE. Madam President, today our Nation faces a very difficult political landscape when it comes to addressing the major challenges to our country, such as unemployment and the deficit. The American public is demanding that the House and Senate work with the President to address these concerns.

I believe the American people's understandable and growing concern over the national debt is shared by every Member of this body. But in order for the Congress to address our fiscal crisis, we must fix our broken budget process.

Today, with fiscal year 2011 nearly halfway over, as a result of the Congress's inability to finish its work, the Federal Government is still operating on stopgap funding designed to avert a government shutdown.

This is no way to govern. Continuing resolutions make it difficult for Federal agencies to perform their duties. As the Secretary of Defense, Mr. Gates, has stated very clearly, operating under a CR places a great burden on the Department of Defense. The same can be said for every Federal agency. Our failure to act responsibly makes the everyday functioning of government more difficult and less responsive to the needs of the American people.

Moreover, continuing resolutions make a mockery of our constitutional responsibility to allocate taxpayer funding wisely. Putting the country on budgetary autopilot is simply unacceptable. It is well past the time to cast aside the blistering campaign rhetoric of the fall and find the means to compromise.

Many new Members of this body were elected on the promise of a return to fiscal responsibility. I would suggest that returning to regular order in our budget process is a necessary component to achieve this goal.

The Appropriations Committee produces 12 individual bipartisan spending

bills, but when the Congress fails to act on them through regular order, we wind up with a $1 trillion omnibus bill or a $1 trillion continuing resolution that cedes the power of the purse to the executive branch.

Neither the most liberal nor the most conservative Member of this body should prefer an omnibus or a CR over the regular order in our budget process.

Several weeks ago, I had the opportunity to sit down with the new chairman of the House Appropriations Committee, Congressman Hal Rogers of Kentucky, to congratulate him on his new position.

During our discussion, we both agreed that the Congress needs to reestablish regular order in the appropriations process. Both Chambers need to pass its bills and allow us to work out our differences in conference.

I believe if we adopt this approach, we can do our part to help this Nation regain its economic health.

The first step in the process is the adoption of a budget to provide the framework for appropriations bills. The House must step up to the plate with a budget that is workable. It cannot hide behind vague rhetoric and arbitrary spending caps, and it should not insist upon irrational, problematic cuts that would devastate the lives of the American people. Likewise, it is imperative that the Senate do its part in moving a budget through a responsible and regular order process, including the timely adoption of a budget resolution. If a budget resolution is not adopted by early May, the appropriations process will be delayed. Every week of delay further diminishes our ability to finish our work prior to the end of the fiscal year.

In recent years, all too often appropriations bills have been held hostage, as Members offered message amendments, knowing they would not pass, while the time needed to complete 12 freestanding bills slipped away. By September, we had abandoned any hope of finishing all 12 bills as the calendar simply did not give us enough time.

We Democrats must recognize that regular order cannot exist without bipartisan cooperation. Last year, despite the lack of a budget resolution, the committee completed almost all of its work, preparing 11 of the 12 appropriations bills for full consideration in a timely manner. However, gridlock on the Senate floor eliminated any further progress.

If a more open amendment process for relevant amendments will enable these bills to move forward, we should be open to such an approach even if that means taking some uncomfortable votes. This Chamber is split 53 to 47. Both sides need to give a little bit, and in so doing, it is my hope that we can get the bipartisan appropriations process back on track.

Certainly, no Member of this body wants to explain to his or her constituents why we have failed yet again to responsibly fund the government or ceded our constitutional authority to the administration or even why we are unable to work together responsibly to avoid a disastrous government shutdown. We must find a way to accomplish the tasks the Constitution has assigned to us. To do this, we need a budget resolution, we need the House to send over appropriations bills in a timely fashion, we need floor time, and we need a willingness to vote on amendments. Without these four things, there is no doubt in my mind that I will be standing in this Chamber in late September, yet again, seeking passage of a continuing resolution in order to avoid shutting down the government.

The House and the Senate need to find a way to work together to pass our bills under the regular order and send them to the President. This is the only way we can restore discipline to the budget process. It is the only way we can maintain our constitutional responsibility to determine how taxpayers dollars are spent. It is truly the only way we can avoid repeating the catchall spending bills none of us wants.

I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

REDUCING THE DEFICIT

Mr. LEVIN. Madam President, yesterday the Senate rejected two bills to provide funding for the rest of this fiscal year. I voted against both bills, and I want to explain why and to explain what I believe is the only course open to us if we are to be serious about reducing the budget deficit.

It was a victory for the American people when the Senate voted overwhelmingly to reject the spending bill sent to us by the House. House Republicans who tell us they want to reduce the deficit have proposed a cure that does little to cure our budget disease and does great damage to the patient in the meantime.

The House bill proposed cuts in nondefense discretionary spending, and in that area alone. Simple math suggests that we cannot meaningfully reduce the deficit in this manner. These programs represent less than 15 percent of the total budget. Not surprisingly, then, the Republican proposal would reduce our projected budget deficit this year by only a token amount. As a matter of fact, it would reduce our budget deficit this year by less than 1 percent.

The Republican plan fails the test of seriousness about the deficit, but it would have done significant damage to programs that Americans depend on. It would have cut more than $1 billion from Head Start. It would have eliminated early childhood education programs for more than 200,000 American children. It would have cut or eliminated Pell grants for hundreds of thousands of college students. It would have cut $61 million from the budget request for food inspections, despite the fact that thousands of Americans every year suffer from foodborne illnesses. It would have cut $1 billion from the Women, Infants and Children Program, weakening a program that helps poor families put food on the table. It would cut $180 million from the Securities and Exchange Commission budget and more than $100 million from the Commodity Futures Trading Commission budget. And those are the regulators. Those are the cops we need on the beat to make sure we oversee the financial markets that recently devastated our economy.

It would have cut nearly $290 million from the Veterans' Administration efforts to provide better service to our veterans.

The House budget would have cut $1 billion of funding for community health centers, eliminating primary care for millions of Americans.

The proposal of the House of Representatives, which we soundly defeated here yesterday, would have cut $550 million from National Science Foundation research, another $1 billion plus from Department of Energy research, and almost $900 billion from our support for renewable energy sources and energy conservation. All of that would make us even more dependent than we now are on foreign oil.

The Republican proposal from the House would have cut $2 billion from clean water programs, putting public health at risk, and it would have cut $250 million from the Great Lakes restoration efforts.

The House proposal would have cut more than $120 million from the President's request and more than $350 million from the fiscal 2010 level from border security efforts. That is the very issue—border security—which the Republicans, including the Speaker of the House, have called their No. 1 priority. Yet their budget would have cut more than $350 million from the 2010 level for border security.

We need to make spending cuts, and I think all of us know that. We have to reduce and remove redundancy and inefficiency in the government, and it exists. The President has proposed cuts. We need to seek more cuts and we need to act. But the cuts the Republicans proposed aren't about increasing efficiency. Their proposal, as Senator MANCHIN pointed out yesterday, blindly hacks at the budget with no sense of our priorities or of our values as a country. So we wisely rejected that path.

We also rejected a second proposal, and I voted against that one as well. I rejected it because while it avoided the

blind hacking at the budget in which the House Republicans engaged, it focused solely on cuts in nondefense discretionary spending. We had two choices yesterday, Draconian cuts or more targeted cuts. But those are not the only two choices available to us. We can choose to seriously address our budget deficit by acknowledging that it cannot be significantly reduced until we understand that increased revenue as well as spending cuts is part of the solution.

How can we raise additional revenue without slowing the economy? We can end the excessive tax cuts for the upper income taxpayers President Bush put in place. We can close tax loopholes that not only drain the Treasury but send American jobs abroad to boot.

The cost of the government to continue that upper bracket income tax cut President Bush was able to obtain is about $30 billion a year. Ending that $30 billion tax cut, which goes to roughly 2 percent of Americans at the very top—those earning more than $200,000—could allow us to avoid the drastic cuts in important programs I have mentioned, and much more besides.

Increasing revenue makes sense not only from a deficit reduction perspective, it is also fair. Those at the top, incomewise, have done very well as a group in recent decades, while incomes for most Americans have stagnated. To be specific, the top 1 percent of all income earners has more than doubled their share of total U.S. income in the last few decades—from 8.2 percent in 1980 to 17.7 percent in 2008. Meanwhile, median household income—the income of the typical American family—is now 5 percent lower than it was in the late 1990s. To eliminate programs that are critically important to working families while maintaining tax cuts for those whose incomes have soared would be a grave injustice.

There are also other revenues we could look to if we are truly serious about deficit reduction. There are a number of tax loopholes we can close. For example, we should not continue to give corporations a tax deduction when they send American jobs overseas. We should not allow corporations and wealthy individuals to avoid U.S. taxes by hiding assets and income in offshore tax havens. We should not allow hedge fund managers to earn enormous incomes and yet pay a lower tax rate than their secretaries pay.

The American people are looking to us. They are concerned about the size of the deficit and the effect it might have on future generations. But they also reject the notion that Draconian cuts—cuts that fall hardest on working families—are the answer. They see the wisdom and the fairness in making sure all Americans share in the sacrifices that will be required as we seek to reduce our deficit.

We have an opportunity now to show the American people that we understand too. We can craft a plan now that preserves vital programs, that makes prioritized and necessary cuts in spending, but also a plan that recognizes the need for comprehensive approaches that address revenue as well as spending. In the coming days, we need to adopt such a comprehensive approach.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Minnesota is recognized.

Mr. FRANKEN. I thank the Chair.

(The remarks of Mr. FRANKEN pertaining to the introduction of S. 555 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. FRANKEN. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. FRANKEN). Without objection, it is so ordered.

SBIR/STTR REAUTHORIZATION ACT OF 2011—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 17, S. 493.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 17, (S. 493), a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk. I ask that it be reported.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 17, S. 493, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

Harry Reid, Mary L. Landrieu, Benjamin L. Cardin, Charles E. Schumer, Daniel K. Inouye, Joseph I. Lieberman, Bernard Sanders, Debbie Stabenow, Patrick J. Leahy, Tom Harkin, Kay R. Hagan, Michael F. Bennet, Al Franken, Herb Kohl, Sheldon Whitehouse, Thomas R. Carper, Richard J. Durbin.

Mr. REID. I now ask unanimous consent that the cloture vote occur immediately following the Senate's action in executive session on Monday, March 14; further, that the mandatory quorum call under rule XXII be waived.

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

Mr. REID. I now withdraw my motion.

The PRESIDING OFFICER. The Senator has that right.

Mr. REID. Mr. President, I am disappointed that I had to file cloture on a bill as important as this one. We were going to have a new day in the Senate. I think it is really too bad. This is the small business innovation bill, and everyone knows we have had an open amendment process. People can offer amendments on anything they want. I think this is suggestive of maybe something I do not understand.

Why wouldn't my Republican colleagues want us to move to a small business bill to help create jobs? We are told that 85 percent of all jobs in America are small business jobs. Should we not be trying to help them? That is what we have been working on. We have not been doing all of these things, these ''messages,'' cutting out programs for little boys and girls who want to learn to read, cutting Pell grants for young men and women who are in college, cutting the ability of renewable energy projects to go forward, and all of these other messages they are sending the American people. We are trying to create jobs.

We have spent this Congress, over here in the Senate, on bipartisan issues creating jobs: FAA, 280,000 jobs. We just finished, within the last few hours, the bill that will change the patent system in this country. That has needed changing for 60 years, and we have done that.

Now they are blocking our going to a small business bill, another bipartisan bill. Senator SNOWE, the ranking member of that committee, has worked with Senator LANDRIEU to move this bill forward. Who is holding up our going to this very important jobs bill? I hope the Republicans in the House are understanding what we are doing over here, creating jobs.

With those two bills I have just mentioned, the patent bill and the bill dealing with the Federal Aviation Administration, that is 580,000 jobs. So I am very disappointed I had to file cloture on proceeding to a small business jobs bill.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

ETHANOL SUBSIDIES AND TARIFFS

Mrs. FEINSTEIN. Mr. President, I have introduced legislation, with my

colleague Senator WEBB, to repeal corn ethanol subsidies and reduce ethanol tariffs.

This legislation has two major provisions.

First, it repeals the 45 cent per gallon corn ethanol blender subsidies—26 U.S.C. 6426(b) and 26 U.S.C. 40(h)—as of July 1, 2011, eliminating the corn ethanol subsidy six months early and saving approximately $3 billion for American taxpayers.

The bill would not affect the credit for noncorn, second generation ''advanced biofuels'' through 2011.

Second, the bill would lower the tariff on imported ethanol to the per gallon level of ethanol subsidies, to reestablish parity between the subsidy and the offsetting tariffs.

This removes the real trade barrier on imported ethanol, but also prevents foreign producers from benefitting from U.S. subsidies.

This legislation is necessary because the 54 cent-per-gallon tariff on ethanol imports and the 45 cent-per-gallon corn ethanol subsidy are fiscally irresponsible and environmentally unwise.

And their recent, 1-year extension in December 2010 made our country more dependent on foreign oil.

Subsidizing blending ethanol into gasoline is fiscally indefensible.

If the current subsidy were to exist through 2014 as the industry has proposed, the Federal Treasury would pay oil companies at least $31 billion to use 69 billion gallons of corn ethanol that the Federal Renewable Fuels Standard already requires them to use under the Clean Air Act.

We cannot afford to pay industry for following the law.

According to this month's Government Accountability Office report on ''Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue'':

> The ethanol tax credit and the renewable fuel standard can be duplicative in stimulating domestic production and use of ethanol, and can result in substantial loss of revenue to the Treasury.

GAO found that the ethanol tax credit, which will cost about $5.7 billion in 2011, is largely unneeded to ensure demand for domestic ethanol production.

The agency recommends that Congress reconsider the necessity of the tax credit, given the effectiveness of the renewable fuel standard, which is administered by EPA.

This legislation would simply implement the GAO's recommendation by repealing this wasteful subsidy 6 months early.

In addition, this legislation would address the tariffs on ethanol that make our country more dependent on foreign oil.

The combined tariffs on ethanol are 11 to 15 cents per gallon higher than the ethanol subsidy it supposedly offsets, and this lack of parity puts imported ethanol at a competitive disadvantage against imported oil.

This discourages imports of low carbon biofuel from Brazil, India, Australia, and other sugar producing countries, and it leads to more oil and gasoline imports from OPEC countries that enter the United States tariff-free.

Reducing the ethanol tariff will diversify our fuel supply, replace oil imports from OPEC countries with low carbon biofuel from our allies, and expand our trade relationships with democratic states.

The data overwhelmingly demonstrate that the costs of the current corn ethanol subsidy and tariff far outweigh the benefits.

The Center for Agricultural and Rural Development at Iowa State University recently estimated that a 1-year extension of the ethanol subsidy and tariff would lead to only 427 additional direct domestic jobs at a cost of almost $6 billion, or roughly $14 million of taxpayer money per job.

According to a July 2010 study by the Congressional Budget Office, ethanol tax credits cost taxpayers $1.78 for each gallon of gasoline consumption reduced, and $750 for each metric ton of carbon dioxide equivalent emissions reduced.

The ethanol subsidy and the ethanol tariffs also threaten our environment.

They support and protect significantly more corn production in the Mississippi River watershed, which experts believe is a primary cause of a ''dead zone'' in the Gulf of Mexico.

The current ethanol subsidy lacks any requirement that the subsidized fuel lead to a reduction in greenhouse gas pollution.

And the tariff on ethanol imports also prevents greater use of imported ethanol made from sugarcane.

Both the U.S. Environmental Protection Agency and the California Air Resources Board agree that putting sugarcane ethanol in our current cars and trucks results in the least greenhouse gas pollution, of all widely available options.

In contrast, the legislation I am introducing would—for the first time—limit subsidies only to ''advanced biofuels'' that reduce pollution at least 50 percent and are produced from noncorn biomass, such as cellulose, switchgrass, or algae.

And it would level the playing field for low carbon biofuel imports, which must compete against dirty oil from OPEC.

Historically our government has helped a product compete in one of three ways: subsidize it, protect it from competition, or require its use.

To my knowledge, corn ethanol is the only product receiving all three forms of support from the U.S. government at this time.

By eliminating ethanol subsidies and trade barriers, this legislation would produce a smaller budget deficit; a healthier Gulf of Mexico ecosystem; less global warming pollution; and reduced dependence on imported oil.

I look forward to working with my colleagues to advance responsible energy tax policies that reduce pollution, create jobs, and improve our international relationships.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ETHANOL ELIGIBLE FOR BLENDER INCOME TAX AND FUEL EXCISE TAX CREDITS.

(a) INCOME TAX CREDIT.—Section 40(h) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) ETHANOL ELIGIBLE FOR CREDIT.—In the case of any sale or use for any period after June 30, 2011, this subsection shall apply only to ethanol which qualifies as an advanced biofuel (as defined in section 211(o)(1)(B) of the Clean Air Act (42 U.S.C. 7545(o)(1)(B))).''.

(b) EXCISE TAX CREDIT.—Section 6426(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(7) ETHANOL ELIGIBLE FOR CREDIT.—In the case of any sale, use, or removal for any period after June 30, 2011, no credit shall be determined under this subsection with respect to an alcohol fuel mixture in which any of the alcohol consists of ethanol unless the ethanol qualifies as an advanced biofuel (as defined in section 211(o)(1)(B) of the Clean Air Act (42 U.S.C. 7545(o)(1)(B))).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale, use, or removal for any period after June 30, 2011.

SEC. 2. ETHANOL TARIFF-TAX PARITY.

Not later than 30 days after the date of the enactment of this Act, and semiannually thereafter, the President shall reduce the temporary duty imposed on ethanol under subheading 9901.00.50 of the Harmonized Tariff Schedule of the United States by an amount equal to the reduction in any Federal income or excise tax credit under section 40(h), 6426(b), or 6427(e)(1) of the Internal Revenue Code of 1986 and take any other action necessary to ensure that the combined temporary duty imposed on ethanol under such subheading 9901.00.50 and any other duty imposed under the Harmonized Tariff Schedule of the United States is equal to, or lower than, any Federal income or excise tax credit applicable to ethanol under the Internal Revenue Code of 1986.

CONTINUING APPROPRIATIONS

Ms. KLOBUCHAR. Mr. President, I rise today to speak about the Senate votes on H.R. 1 and Inouye amendment No. 149 regarding spending levels for the remainder of this fiscal year.

I opposed H.R. 1 because it called for severe cuts with little or no thought to the economic consequences. By cutting programs that support our seniors and veterans, as well as programs that contribute to our economic activity, H.R. 1 would have jeopardized our economic recovery at a critical time.

I voted for the necessary spending cuts included in the Inouye amendment because I saw it as a start, not an end. I believe additional cuts are needed to address our fiscal challenges. I am very

supportive of the bipartisan negotiations that are taking place for a longer term comprehensive deficit reduction plan and I would like us to move forward with the more difficult task of addressing our long-term fiscal challenges.

AMERICA INVENTS ACT

Mrs. MCCASKILL. I would like to discuss my amendment, No. 139, to S. 23, the America Invents Act, on pending claims in false marking cases. I want to raise the issue so we can consider it in the future as this legislation progresses.

The Patent Act provides a cause of action against those who ''falsely claim that their products are patented. A successful false-marking claimant must prove two elements: first, that an unpatented article has been marked as patented; and second that the marking was done with intent to deceive the public. These actions can hurt small businesses, start-ups and inventors who will be deterred from competing with such products.

The underlying bill alters the false marking provision by stipulating that the statute may only be privately enforced by a person who has suffered a competitive injury. In addition, damages would be limited to those that are adequate to compensate for the injury.

However, the legislation would also apply the newer rules to pending claims. These include claims that are now in the court system and under negotiation. By changing the rules in pending claims, the legislation allows potential wrongdoers to use the new law to protect themselves from past conduct.

This sets a bad precedent for our legal system and could absolve potential wrongdoers. My amendment would simply require that the changes to false marking provisions to apply only to prospective cases going forward. Small businesses and inventors that have expended considerable resources to protect themselves should not be penalized by a provision that retroactively eliminates pending claims.

My amendment is not an attempt to gut or strike the false markings provision. It is simply a modification to address the concerns of current litigants, consumers and small businesses. I urge my colleagues to strongly consider this issue going forward.

EYE DONOR MONTH

Mr. BROWN of Ohio. Mr. President, March is National Eye Donor Month—a month—to honor those who have restored sight to blind or vision-impaired Americans across the country.

For the last 28 years, since National Eye Donor Month was first established in 1983, the eye donor community has raised public awareness about the need for eye donation.

Every March for each of the past 28 years, our Nation has honored dedicated individuals who work tirelessly at hospitals, medical centers, doctors' offices, and eye banks across the country to educate the public on the need for cornea donations and work with the transplant teams.

We continue to give thanks to eye donors—and their families—who offered one last remarkable gift because they had the foresight to become organ donors.

Eye donation provides a precious second chance at clear vision for those with ocular diseases. Approximately 11.4 million Americans experience severe visual problems that are not correctable by glasses. A parent or grandparent cannot see their children or grandchildren play a little league game or walk across the stage at graduation. And many children experience momentous life events—and everyday happenings—without the eyesight that many of us take for granted.

Thankfully and miraculously, through eye donation and corneal transplants, vision that has been lost to disease or injury or infection can be restored. Since 1961, more than 700,000 corneal transplants have been performed to restore sight to children as young as 1 day old and adults as old as 103. And corneal transplants are highly successful; 90 percent of all corneal transplant operations effectively restore sight to the patient. Each year, eye banks across the country provide 52,000 corneal grafts for transplantation.

Ohio's Central Ohio Lions Eye Bank, COLEB, in Columbus performed corneal transplants for 340 patients in 2010. COLEB gave these 340 patients an opportunity to regain their sight and, with that, the ability to see their loved ones again—or for the first time. In southern Ohio, the Cincinnati Eye Bank for Sight Restoration, Inc., partnered with physicians at the University of Cincinnati to establish programs for public and professional education as well as conduct ocular medical research. The Cincinnati Eye Bank is able to serve 30 hospitals in southwestern Ohio, northern Kentucky, and eastern Indiana. In northern Ohio, the Cleveland Eye Bank, which serves nearly 5 million people and more than 60 hospitals in northern Ohio, created the Lasting Legacy program to honor the families of eye donors by publicly recognizing the donors' amazing gift of sight.

Simply put, corneal transplants—made possible through eye donors—change people's lives.

But more must be done. Some 1,600 Ohioans each year could have their sight restored through corneal transplants but are unable to because there are not enough organ donors.

I encourage all Americans to consider becoming eye donors. Even those without 20/20 vision or who have cataracts can donate. In Ohio, you can become an eye organ donor when you renew your driver's license. It is that easy.

I also urge my colleagues to work with local eye banks and the Eye Bank Association of America to promote the precious gift of eye donation. While 700,000 people have had their sight restored since 1961, tens of thousands more are waiting.

During this year's Eye Donor Month, I thank all those who continue to promote and advocate for eye donation and the gift of sight it gives.

ADDITIONAL STATEMENTS

TRIBUTE TO JD WAGGONER

● Mr. ROCKEFELLER. Mr. President, today I pay tribute to a dedicated professional who has worked at the West Virginia Library Commission for 40 years, including 9 years as its executive director, Mr. JD Waggoner.

JD Waggoner is a true leader and effective advocate for libraries. I have been extraordinarily proud to work closely with him over many years, and I understand and appreciate the special role that libraries play in communities across our State. In addition to his leadership at the commission, JD also has been a volunteer fireman which is another sign of his community service.

Thanks to the leadership of JD and others, our libraries are connected to the Internet and provide quality services to West Virginians. We worked together on the program I helped to create in the 1996 Telecommunications Act known as the E-Rate. This discount program provides $2.25 billion in discounts for telecommunications, Internet access and internal connections to libraries and schools nationwide. In West Virginia, it provides over $10 million each year to libraries and schools. JD Waggoner and his team have done an amazing job in managing this program and helping the smaller, rural libraries deal with the paperwork and challenges. Thanks to this access, our libraries now provide access to thousands of current publications for patrons to enjoy and learn.

The Library Commission also has a special initiative known as Learning Express. This program provides access to practice tests on a wide range of programs from the GED, ACT and SAT, and other professional licenses. This means that individuals can visit their libraries and, for free, take practice online exams to prepare for the real tests rather than pay expensive fees. This is a truly wonderful opportunity to help West Virginians advance their education. The director and the Library Commission are the support network for our libraries and the services range from Internet access to story hours and literacy efforts to hosting community groups and special events include movies or presentations. Libraries are hubs of activity and recent studies indicate people looking for work are more comfortable looking for work online at the library rather than an employment office.

Our West Virginia libraries are true treasures because of the dedication and leadership of JD Waggoner, his team and local librarians across our states. While JD Waggoner will be deeply missed, he most certainly deserves that chance to relax and enjoy his retirement. I wish him the very best and wanted to share his history with my Senate colleagues.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 5, 2011, the Speaker appoints the following Members of the House of Representatives to the Joint Economic Committee: Mr. HINCHEY of New York, Mrs. MALONEY of New York, Ms. LORETTA SANCHEZ of California, and Mr. CUMMINGS of Maryland.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–856. A communication from the Attorney-Advisor, Office of the Secretary, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Procedures Relating to Awards Under the Equal Access to Justice Act'' (RIN0503–AA42) received in the Office of the President of the Senate on March 9, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–857. A communication from the Assistant Secretary of Defense (Homeland Defense and Americas' Security Affairs), transmitting, pursuant to law, a report relative to the Mitigation of Power Outage Risks for Department of Defense Facilities and Activities; to the Committee on Armed Services.

EC–858. A communication from the Executive Director and Designated Federal Officer of the Military Leadership Diversity Commission, transmitting, pursuant to law, a report entitled ''From Representation to Inclusion: Diversity Leadership for the 21st Century Military'' and the accompanying executive summary; to the Committee on Armed Services.

EC–859. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket No. FEMA–2011–0002)) received in the Office of the President of the Senate on March 9, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–860. A communication from the Deputy to the Chairman, Legal Office, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Assessments, Large Bank Pricing'' (RIN3064–AD66) received in the Office of the President of the Senate on March 9, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–861. A communication from the Legal Information Assistant, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Standards Governing the Release of a Suspicious Activity Report'' (RIN1550–AC28) received in the Office of the President of the Senate on March 9, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–862. A communication from the Legal Information Assistant, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Confidentiality of Suspicious Activity Reports'' (RIN1550–AC26) received in the Office of the President of the Senate on March 9, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–863. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Implementation of the National Correct Coding Initiative in the Medicaid Program''; to the Committee on Finance.

EC–864. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles that are controlled under Category I of the United States Munitions List sold commercially under contract in the amount of $1,000,000 or more; to the Committee on Foreign Relations.

EC–865. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, to include technical data, and defense services for the support of an Airborne Intelligence and Surveillance System (AISS) for the Finland Ministry of Defense (MOD) in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–866. A communication from the Director, Office of SAFETY Act Implementation, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulations Implementing the Support Anti-terrorism by Fostering the Effective Technologies Act of 2002 (the SAFETY Act)'' (RIN1601–AA15) received in the Office of the President of the Senate on March 9, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–867. A communication from the Acting Protected Critical Infrastructure Information (PCII) Program Manager, National Protection and Programs Directorate, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Handling Critical Infrastructure Information'' (RIN1601–AA14) received in the Office of the President of the Senate on March 9, 2011; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Jimmie V. Reyna, of Maryland, to be United States Circuit Judge for the Federal Circuit.

Caitlin Joan Halligan, of New York, to be United States Circuit Judge for the District of Columbia Circuit.

Arenda L. Wright Allen, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Vincent L. Briccetti, of New York, to be United States District Judge for the Southern District of New York.

John A. Kronstadt, of California, to be United States District Judge for the Central District of California.

Michael Francis Urbanski, of Virginia, to be United States District Judge for the Western District of Virginia.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CARDIN:

S. 538. A bill to amend the Neotropical Migratory Bird Conservation Act to reauthorize the Act; to the Committee on Environment and Public Works.

By Mr. WHITEHOUSE:

S. 539. A bill to amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, Mr. MERKLEY, Mr. SANDERS, Mr. WYDEN, Mr. MENENDEZ, Mr. AKAKA, Mrs. GILLIBRAND, and Mrs. MURRAY):

S. 540. A bill to prevent harassment at institutions of higher education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNET (for himself, Mr. ALEXANDER, Mr. FRANKEN, and Mr. BURR):

S. 541. A bill to amend the Elementary and Secondary Education Act of 1965 to allow State educational agencies, local educational agencies, and schools to increase implementation of schoolwide positive behavioral interventions and supports and early intervening services in order to improve student academic achievement, reduce disciplinary problems in schools, and to improve coordination with similar activities and services provided under the Individuals with Disabilities Education Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BEGICH:

S. 542. A bill to amend title 10, United States Code, to authorize space—available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents; to the Committee on Armed Services.

By Mr. WYDEN (for himself, Ms. SNOWE, Mrs. GILLIBRAND, Mr.

McCAIN, Mr. MENENDEZ, Mr. ENSIGN, Mr. NELSON of Florida, and Mr. BURR):

S. 543. A bill to restrict any State or local jurisdiction from imposing a new discriminatory tax on cell phone services, providers, or property; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 544. A bill to authorize the Secretary of the Interior to conduct a study of alternatives for commemorating and interpreting the role of the Buffalo Soldiers in the early years of the National Parks, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. UDALL of Colorado:

S. 545. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to strengthen the quality control measures in place for part B lung disease claims and part E processes with independent reviews; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TESTER (for himself and Mr. BAUCUS):

S. 546. A bill to extend the Federal recognition to the Little Shell Tribe of Chippewa Indians of Montana, and for other purposes; to the Committee on Indian Affairs.

By Mrs. MURRAY:

S. 547. A bill to direct the Secretary of Education to establish an award program recognizing excellence exhibited by public school system employees providing services to students in pre—kindergarten through higher education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAMBLISS (for himself, Mr. GRAHAM, Ms. AYOTTE, Mr. McCAIN, and Mr. BURR):

S. 548. A bill to provide for the effective interrogation of unprivileged enemy belligerents and for other purposes; to the Select Committee on Intelligence.

By Mr. ENSIGN (for himself, Mr. BARRASSO, Mr. McCAIN, Mr. VITTER, Mr. ENZI, Mr. CRAPO, and Mr. MORAN):

S. 549. A bill to require the Attorney General of the United States to compile, and make publically available, certain data relating to the Equal Access to Justice Act, and for other purposes; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. CARPER, and Mr. BROWN of Massachusetts):

S. 550. A bill to improve the provision of assistance to fire departments, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. McCAIN (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. CHAMBLISS, Ms. AYOTTE, and Mr. BROWN of Massachusetts):

S. 551. A bill to improve procedures for the detention and review of status of detainees of the United States in connection with the continuing armed conflict with al Qaeda, the Taliban, and affiliated groups; to the Committee on Armed Services.

By Mr. SANDERS (for himself and Ms. MIKULSKI):

S. 552. A bill to reduce the Federal budget deficit by creating a surtax on high income individuals and eliminating big oil and gas company tax loopholes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. CHAMBLISS, Mr. McCAIN, Ms. AYOTTE, and Mr. BURR):

S. 553. A bill to provide for the review of challenges to the detention of unprivileged enemy belligerents and for other purposes; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. McCAIN, Mr. CHAMBLISS, Ms. AYOTTE, Mr. GRASSLEY, Mr. RUBIO, Mr. BURR, Mr. ENSIGN, Mr. ALEXANDER, Mr. JOHANNS, Mr. LIEBERMAN, and Mr. BROWN of Massachusetts):

S. 554. A bill to prohibit the use of Department of Justice funds for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001, terrorist attacks; to the Committee on the Judiciary.

By Mr. FRANKEN (for himself, Mr. HARKIN, Mr. KERRY, Mrs. MURRAY, Ms. KLOBUCHAR, Mr. MERKLEY, Mr. DURBIN, Mr. LAUTENBERG, Mr. BENNET, Mr. BLUMENTHAL, Mr. UDALL of Colorado, Ms. MIKULSKI, Mr. LEAHY, Mr. SANDERS, Mr. BINGAMAN, Mr. WHITEHOUSE, Mr. CARDIN, Mrs. BOXER, Mrs. GILLIBRAND, Mr. MENENDEZ, Mr. AKAKA, Mr. SCHUMER, Mr. WYDEN, Mr. BEGICH, Mr. CASEY, Ms. CANTWELL, Mr. BROWN of Ohio, Mrs. SHAHEEN, Mr. REED, and Mr. COONS):

S. 555. A bill to end discrimination based on actual or perceived sexual orientation or gender identity in public schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HUTCHISON (for herself and Mr. PRYOR):

S. 556. A bill to amend the securities laws to establish certain thresholds for shareholder registration, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Ms. SNOWE, Mr. BURR, Mr. KERRY, Mr. BROWN of Ohio, Mr. LEVIN, Mr. JOHNSON of South Dakota, Mr. PRYOR, Mr. LEAHY, and Mrs. GILLIBRAND):

S. 557. A bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. BINGAMAN, Mrs. BOXER, Mr. BROWN of Ohio, Ms. CANTWELL, Mr. CARDIN, Mr. CASEY, Mr. DURBIN, Mr. FRANKEN, Mr. HARKIN, Mr. JOHNSON of South Dakota, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. SANDERS, Mr. UDALL of New Mexico, Mr. WHITEHOUSE, and Mr. WYDEN):

S. 558. A bill to limit the use of cluster munitions; to the Committee on Foreign Relations.

By Ms. KLOBUCHAR:

S. 559. A bill to promote the production and use of renewable energy, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. BROWN of Ohio, and Mr. AKAKA):

S. 560. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare program; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. BARRASSO):

S. 561. A bill for the relief of Ashley Ross Fuller; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself, Mr. CARDIN, Mrs. MURRAY, Mr. WARNER, and Mr. WEBB):

S. 562. A bill to authorize the Secretary of Transportation to establish national safety standards for transit agencies operating heavy rail on fixed guideway; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 563. A bill to provide for equal access to COBRA continuation coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 564. A bill to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KOHL (for himself, Mr. DURBIN, Mr. SCHUMER, Mr. HARKIN, Mrs. GILLIBRAND, and Mr. BROWN of Ohio):

S. Res. 98. A resolution to express the sense of the Senate regarding the school breakfast program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DeMINT (for himself, Mr. BARRASSO, Mr. BURR, Mr. BLUNT, Mr. BOOZMAN, Mr. CHAMBLISS, Mr. COBURN, Mr. CORNYN, Mr. CRAPO, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. KYL, Mr. LEE, Mr. McCAIN, Mr. MORAN, Mr. PAUL, Mr. RISCH, Mr. RUBIO, Mr. SESSIONS, Mr. VITTER, and Mr. WICKER):

S. Res. 99. A resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent; to the Committee on Foreign Relations.

By Mr. BENNET (for himself, Mrs. MURRAY, and Mr. MERKLEY):

S. Res. 100. A resolution designating March 11, 2011, as ''World Plumbing Day''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 101

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 101, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 164

At the request of Mr. BROWN of Massachusetts, the names of the Senator from Maine (Ms. COLLINS) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 164, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 185

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 185, a bill to provide United

States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

S. 253

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 253, a bill to establish a commission to ensure a suitable observance of the centennial of World War I, and to designate memorials to the service of men and women of the United States in World War I.

S. 325

At the request of Mrs. MURRAY, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 325, a bill to amend title 10, United States Code, to require the provision of behavioral health services to members of the reserve components of the Armed Forces necessary to meet pre-deployment and post-deployment readiness and fitness standards, and for other purposes.

S. 344

At the request of Mr. REID, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 344, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes.

S. 384

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 384, a bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research.

S. 398

At the request of Mr. BINGAMAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 398, a bill to amend the Energy Policy and Conservation Act to improve energy efficiency of certain appliances and equipment, and for other purposes.

S. 409

At the request of Mr. SCHUMER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 409, a bill to ban the sale of certain synthetic drugs.

S. 414

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 418

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 424

At the request of Mr. SCHUMER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 424, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 425

At the request of Mr. UDALL of Colorado, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 425, a bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders.

S. 436

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 436, a bill to ensure that all individuals who should be prohibited from buying a firearm are listed in the national instant criminal background check system and require a background check for every firearm sale.

S. 486

At the request of Mr. WHITEHOUSE, the names of the Senator from North Carolina (Mrs. HAGAN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 486, a bill to amend the Servicemembers Civil Relief Act to enhance protections for members of the uniformed services relating to mortgages, mortgage foreclosure, and eviction, and for other purposes.

S. 488

At the request of Mr. CARDIN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 488, a bill to require the FHA to equitably treat homebuyers who have repaid in full their FHA-insured mortgages, and for other purposes.

S. 494

At the request of Mr. LIEBERMAN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 494, a bill to amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend title XIX of the Social Security Act to provide States the option to increase screening in the United States population for the prevention, early detection, and timely treatment of colorectal cancer.

S. 496

At the request of Mr. MCCAIN, the names of the Senator from Massachusetts (Mr. BROWN) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of S. 496, a bill to amend the Food, Conservation, and Energy Act to repeal a duplicative program relating to inspection and grading of catfish.

S. 506

At the request of Mr. CASEY, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 506, a bill to amend the Elementary and Secondary Education Act of 1965 to address and take action to prevent bullying and harassment of students.

S. 511

At the request of Mr. BLUNT, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 511, a bill to amend the Clean Air Act to provide for a reduction in the number of boutique fuels, and for other purposes.

S. 512

At the request of Mr. BINGAMAN, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 512, a bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out programs to develop and demonstrate 2 small modular nuclear reactor designs, and for other purposes.

S. 516

At the request of Mrs. HUTCHISON, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 516, a bill to extend outer Continental Shelf leases to accommodate permitting delays and to provide operators time to meet new drilling and safety requirements.

At the request of Ms. LANDRIEU, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 516, supra.

S. CON. RES. 4

At the request of Mr. SCHUMER, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution expressing the sense of Congress that an appropriate site on Chaplains Hill in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States.

S. RES. 65

At the request of Mr. WICKER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. Res. 65, a resolution expressing the sense of the Senate that the conviction by the Government of Russia of businessman Mikhail Khodorkovsky and Platon Lebedev constitutes a politically motivated case of selective arrest and prosecution that flagrantly undermines the rule of law and independence of the judicial system of Russia.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARDIN:

S. 538. A bill to amend the Neotropical Migratory Bird Conservation Act to reauthorize the Act; to the

Committee on Environment and Public Works.

Mr. CARDIN. Mr. President, today I am introducing the Neotropical Migratory Bird Conservation Act. This bill promotes long-term conservation, education, research, monitoring, and habitat protection for more than 350 species of neotropical migratory birds that breed in North America in the summer and spend our winters in tropical climates south of our border. Through its successful competitive, matching grant program, the U.S. Fish and Wildlife Service supports public-private partnerships to countries mostly in Latin America and the Caribbean. Up to one quarter of the funds may be awarded for domestic projects.

This legislation aims to sustain healthy populations of migratory birds that are not only beautiful to look at but help our farmers by consuming billions of harmful insect pests each year. These vulnerable bird populations face many environmental factors such as pesticide pollution, deforestation, sprawl, and invasive species that threaten their habitat and, ultimately, their survival. As good indicators of a healthy ecosystem, it is troubling that, according to the National Audubon Society, at least 29 species of migratory birds are experiencing significant population declines. For example, populations of the Cerulean Warbler and Olive-Sided Flycatcher have declined as much as 70 percent since surveys began in the 1960s.

The Baltimore Oriole, the State bird of my home state of Maryland, has been experiencing a decline in population despite being protected by Federal law under the Migratory Bird Treaty Act of 1918 and the State of Maryland's Nongame and Endangered Species Conservation Act. Destruction of their domestic breeding habitat and tropical winter habitat, coupled with the toxic pesticides ingested by insects which are then eaten by the Oriole, has significantly contributed to this decline. It is essential that we invest in conservation efforts in our country as well as others along the migratory route of the wide range of migratory birds. This legislation accomplishes this goal.

The Neotropical Migratory Bird Conservation Act has a proven track record of reversing habitat loss and advancing conservation strategies for the broad range of neotropical birds that populate the United States and the rest of the Western hemisphere. According to the U.S. Fish and Wildlife Service, between 2002 and 2010, this program has successfully supported 333 projects, coordinated by groups in 48 U.S. State/territories and 36 countries. Additionally, it is a great value for taxpayers as it leverages over $4.00 for each Federal dollar spent. Since 2002, the U.S. has invested more than $25 million in 262 projects and leveraged an additional $112 million in partner funds to support these projects. It also helps to generate $2.7 billion annually for the U.S. economy through wildlife watching activities.

This legislation is cost-effective, budget-friendly, and has been a highly successful Federal program. This simple reauthorization bill will make sure that this good work continues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

Section 10 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6109) is amended to read as follows:

''SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act such sums as are necessary for each of fiscal years 2012 through 2017.

''(b) USE OF FUNDS.—Of the amounts made available under subsection (a) for each fiscal year, not less than 75 percent shall be expended for projects carried out at a location outside of the United States.''.

By Mr. BEGICH:

S. 542. A bill to amend title 10, United States Code, to authorize space-available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents; to the Committee on Armed Services.

Mr. BEGICH. Mr. President, today I am pleased to introduce the Space Available Equity Act.

Members and retirees of the National Guard and Reserve, their families, and surviving military spouses make great sacrifices for our nation. However, too often these individuals do not receive the benefits they have earned for their service.

In Alaska, the National Guard conducts more search and rescue missions in the most challenging terrain than any other state. They save lives every day in their state role and frequently deploy just like their active duty counter-parts. The demands on our reserve component have been higher than ever before. Yet members of the reserve components and ''gray area'' retirees, National Guardsman or Reservist eligible for retirement but under the age of 60, have limited travel privileges on Department of Defense aircraft under current regulation. Their space-available travel benefits are restricted to the continental United States and are not extended to their dependents, unlike active duty members and retirees.

Surviving spouses of a military member eligible for retired pay retain no space-available travel privileges at all after the death of their spouse, despite having made a lifetime commitment to the military or in many cases, lost their loved one in war. In Alaska, we understand how important surviving spouses are. The Tragedy Assistance Program, or as it's more commonly known—TAPS, was founded in my State.

To correct these inequities, I am reintroducing the National Guard, Reserve, ''Gray Area'' Retiree, and Surviving Spouse Space-available Travel Equity Act. This bill will give these deserving individuals comprehensive and equitable space-available travel privileges on Department of Defense aircraft. The bill is endorsed by the National Guard Association of the United States.

I urge my colleagues to join me in giving parity to our reserve component members and surviving military spouses.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Guard, Reserve, ''Gray Area'' Retiree, and Surviving Spouses Space-available Travel Equity Act of 2011''.

SEC. 2. ELIGIBILITY OF RESERVE MEMBERS, GRAY-AREA RETIREES, WIDOWS AND WIDOWERS OF RETIRED MEMBERS, AND DEPENDENTS FOR SPACE-AVAILABLE TRAVEL ON MILITARY AIRCRAFT.

(a) ELIGIBILITY.—Chapter 157 of title 10, United States Code, is amended by inserting after section 2641b the following new section:

''§ 2641c. Space-available travel on Department of Defense aircraft: reserve members, reserve members eligible for retired pay but for age; widows and widowers of retired members and dependents

''(a) RESERVE MEMBERS.—A member of a reserve component holding a valid Uniformed Services Identification and Privilege Card shall be provided transportation on Department of Defense aircraft, on a space-available basis, on the same basis as active duty members of the uniformed services under any other provision of law or Department of Defense regulation.

''(b) RESERVE RETIREES UNDER APPLICABLE ELIGIBILITY AGE.—A member or former member of a reserve component who, but for being under the eligibility age applicable to the member under section 12731 of this title, otherwise would be eligible for retired pay under chapter 1223 of this title shall be provided transportation on Department of Defense aircraft, on a space-available basis, on the same basis as members of the armed forces entitled to retired pay under any other provision of law or Department of Defense regulation.

''(c) WIDOWS AND WIDOWERS OF RETIRED MEMBERS.—

''(1) IN GENERAL.—An unremarried widow or widower of a member of the armed forces described in paragraph (2) shall be provided transportation on Department of Defense aircraft, on a space-available basis, on the same basis as members of the armed forces entitled to retired pay under any other provision of law or Department of Defense regulation.

''(2) MEMBERS COVERED.—A member of the armed forces referred to in paragraph (1) is a member who—

''(A) is entitled to retired pay;

''(B) dies in line of duty while on active duty and is not eligible for retired pay; or

''(C) in the case of a member of a reserve component, dies as a result of a line of duty condition and is not eligible for retired pay.

''(d) DEPENDENTS.—A dependent of a member or former member described in either subsections (a) or (b) or of a deceased member entitled to retired pay holding a valid Uniformed Services Identification and Privilege Card and a surviving unremarried spouse and the surviving dependent of a deceased member or former member described in subsection (b) holding a valid Uniformed Services Identification and Privilege Card shall be provided transportation on Department of Defense aircraft, on a space-available basis, if the dependent is accompanying the member or, in the case of a deceased member, is the surviving unremarried spouse of the deceased member or is a dependent accompanying the surviving unremarried spouse of the deceased member.

''(e) DEFINITION OF DEPENDENT.—In this section, the term 'dependent' has the meaning given that term in section 1072 of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2641b the following new item:

''2641c. Space-available travel on Department of Defense aircraft: reserve members, reserve members eligible for retired pay but for age; widows and widowers of retired members and dependents.''.

By Mr. WYDEN (for himself, Ms. SNOWE, Mrs. GILLIBRAND, Mr. MCCAIN, Mr. MENENDEZ, Mr. ENSIGN, Mr. NELSON of Florida, and Mr. BURR):

S. 543. A bill to restrict any State or local jurisdiction from imposing a new discriminatory tax on cell phone services, providers, or property; to the Committee on Finance.

Mr. WYDEN. Mr. President, today I rise to introduce the Wireless Tax Fairness Act and I am delighted and honored to be joined in this effort by Senators SNOWE, GILLIBRAND, ENSIGN, MENENDEZ, MCCAIN, BURR, and Senator NELSON from Florida.

I want to start with an interesting fact that I read a few months ago, which is that over 20 percent of Americans have gotten rid of their land line telephone service in favor of wireless mobile technology. Unfortunately, as more and more people make this shift, they are being forced to pay higher and higher state and local taxes for their wireless service. Since 2007 the average wireless tax rate consumers have to pay rose by 1.1 percentage points, from 15.2 percent to 16.3 percent. At a time when the Federal Government is trying to improve consumer access to developing technologies and broadband Internet in particular, does it make sense to have local, state, and Federal Governments forcing higher taxes on them? The answer is no, especially as 3G and 4G emerge as dominant wireless technologies. These taxes only act to hurt consumers, stifle innovation in the wireless industry, and restrict access to the Internet.

In order to make sure that wireless technology can continue to flourish I am introducing the Wireless Tax Fairness Act. This legislation will keep American companies competitive by putting the brakes on unfair wireless tax increases—allowing American companies to remain leaders in innovation, making it easier for Americans to afford these services and providing an affordable way for consumers to access the Internet. The technology that is developed and deployed in America paves the way for the same American technology to be deployed overseas, creating and sustaining good American jobs.

In an era when a new cellphone, smartphone, or tablet is introduced nearly every month it is essential that the market for these products is determined by consumers and not by disproportionately high taxes. 17 percent of American families earning less than $30,000 rely on a wireless device to access the Internet. The deployment and availability of such services needs to be encouraged by keeping prices affordable for both individuals and businesses through a fair and reasonable tax regime.

In order to make sure that our walk is consistent with our talk on promoting American innovation, it is time to place a moratorium on discriminatory wireless taxes and fees. I hope our colleagues will join us in supporting this bill.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 544. A bill to authorize the Secretary of the Interior to conduct a study of alternatives for commemorating and interpreting the role of the Buffalo Soldiers in the early years of the National Parks, and for other purposes; to the Committee on Energy and Natural Resoruces.

Mrs. FEINSTEIN. Mr. President, I rise today on behalf of myself and Senator BOXER to introduce the Buffalo Soldiers in the National Parks Study Act. This legislation is an important step in preserving the legacy of the Army's first all-black infantry and cavalry units and their unique role in the creation of our National Park system.

The Buffalo Soldiers served bravely in campaigns both at home and abroad before being stationed at the military Presidio in San Francisco and being given charge of patrolling the National Park system. Although first tasked with taming the frontier, these troops also took on the responsibility of preserving that wilderness for future generations. Each summer, Buffalo Soldier regiments traveled roughly 320 miles from San Francisco to either Sequoia or Yosemite National Park, where they patrolled the parks for poachers and loggers, built trails, and escorted visitors. They were, in essence if not in name, the nation's first park rangers.

In a time of segregation and adversity, these soldiers served their country bravely and the National Parks they worked to establish are part of the legacy they leave behind. Unfortunately, this unique aspect of their history is neither widely recognized nor remembered. This legislation would address that by authorizing a study to determine the most appropriate way to memorialize the Buffalo Soldiers. Money procured under the act would be used to determine the feasibility of establishing a national historic trail along the route traveled by the Buffalo Soldiers, scout for properties to add to the National Register of Historic Places, and develop educational initiatives and a public awareness campaign about the contribution of African-American soldiers after the Civil War.

Although the experiences of the Buffalo Soldiers are an important piece of our national history, we are in danger of losing their legacy to the passage of time unless we take conscious steps to preserve the memory. This legislation works to ensure that the contributions of the Buffalo Soldiers will be remembered and shared by all. I urge my colleagues to join me in their support for this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 544

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 ''Buffalo Soldiers in the National Parks Study Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) In the late 19th century and early 20th century, African-American troops who came to be known as the Buffalo Soldiers served in many critical roles in the western United States, including protecting some of the first National Parks.

(2) Based at the Presidio in San Francisco, Buffalo Soldiers were assigned to Sequoia and Yosemite National Parks where they patrolled the backcountry, built trails, stopped poaching, and otherwise served in the roles later assumed by National Park rangers.

(3) The public would benefit from having opportunities to learn more about the Buffalo Soldiers in the National Parks and their contributions to the management of National Parks and the legacy of African-Americans in the post-Civil War era.

(4) As the centennial of the National Park Service in 2016 approaches, it is an especially appropriate time to conduct research and increase public awareness of the stewardship role the Buffalo Soldiers played in the early years of the National Parks.

(b) PURPOSE.—The purpose of this Act is to authorize a study to determine the most effective ways to increase understanding and public awareness of the critical role that the Buffalo Soldiers played in the early years of the National Parks.

SEC. 3. STUDY.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a study of alternatives for commemorating and interpreting the role of the Buffalo Soldiers in the early years of the National Parks.

(b) CONTENTS OF STUDY.—The study shall include—

(1) a historical assessment, based on extensive research, of the Buffalo Soldiers who served in National Parks in the years prior to the establishment of the National Park Service;

(2) an evaluation of the suitability and feasibility of establishing a national historic trail commemorating the route traveled by the Buffalo Soldiers from their post in the Presidio of San Francisco to Sequoia and Yosemite National Parks and to any other National Parks where they may have served;

(3) the identification of properties that could meet criteria for listing in the National Register of Historic Places or criteria for designation as National Historic Landmarks;

(4) an evaluation of appropriate ways to enhance historical research, education, interpretation, and public awareness of the story of the Buffalo Soldiers' stewardship role in the National Parks, including ways to link the story to the development of National Parks and the story of African-American military service following the Civil War; and

(5) any other matters that the Secretary of the Interior deems appropriate for this study.

(c) REPORT.—Not later than 3 years after funds are made available for the study, the Secretary of the Interior shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the study's findings and recommendations.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. CARPER, and Mr. BROWN of Massachusetts).

S. 550. A bill to improve the provision of assistance to fire departments, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, today Senators COLLINS, CARPER, BROWN, and I are pleased to introduce the Fire Grants Reauthorization Act of 2011 to ensure that firefighters and emergency medical service personnel serving communities across the nation are repaid for the sacrifices they make every day with the best possible training and equipment—particularly given the budget cuts many communities have been forced to make in these economically uncertain times.

The bill we present to the Senate reauthorizes the Assistance to Firefighters, AFG, program and the Staffing for Adequate Fire and Emergency Response program, SAFER, two highly successful programs I worked to establish in 2000 and 2003. This is bipartisan legislation that has won overwhelming Senate support in previous years. As we all know, our first responders make great sacrifices for us. Firefighters in communities of all shapes and sizes have assumed a greater role in overall national emergency preparedness since September 11 and the Hurricane Katrina catastrophe. They now serve as the frontline of defense in many communities for disasters of all types. More than ever, firefighters need the training and equipment to deal not only with fires but also with hazardous materials; nuclear, radioactive, and explosive devices; and other potential threats.

The responsibilities placed on firefighters have only grown more demanding. Firefighters respond more and more to medical emergencies—15.8 million in 2008, a 213 percent increase from 1980. Right here in Washington, D.C., at Fire Engine Company 10—known as the ''House of Pain'' for its grueling schedule—80 percent of the calls are for medical emergencies. Our nation's firefighters—like other first responders—are the first to arrive and the last to leave whenever trouble hits. They deserve all the support we can give them.

Unfortunately, they do not always get it. Firefighters often lack the equipment and vehicles they need to do their jobs safely and effectively. In 2006 the U.S. Fire Administration reported that 60 percent of fire departments did not have enough breathing apparatuses to equip all firefighters on a shift, 65 percent did not have enough portable radios, and 49 percent of all fire engines were at least 15 years old.

We can and must do more for these brave men and women. We must make sure they have what they need to protect their communities and themselves as they perform a very dangerous job. Our bill takes much-needed steps to ensure that they do.

To start with, because career, volunteer, and combination fire departments all suffer from shortages in equipment, vehicles, and training, our bill requires that each type receives at least 25 percent of the available AFG grant funding. The remaining funds will be allocated based on factors such as risk and the needs of individual communities and the country as a whole. This creates an appropriate balance, ensuring that funds are directed at departments facing the most significant risks while guaranteeing that no department is left out.

We have also taken a number of steps in our bill to help fire departments in communities struggling with economic difficulties. In many cases, local governments have reduced spending on vital services, including fire departments. Among other things, these cuts have prevented many departments from replacing old equipment and forced them to lay off needed firefighters. To help departments rebuild, we have lowered the matching requirements for AFG and SAFER. Departments are still required to match some of their grant awards with funds of their own—ensuring they have some skin in the game—but the reduced amount will make it easier for them to accept awards.

We have similarly created an economic hardship waiver for both grant programs that will allow FEMA to waive certain requirements, such as requiring that grantees provide matching funds, for departments in communities that have been especially hard hit by tough economic times.

Our bill contains a number of other important provisions. It raises the maximum grant amounts available under AFG. As commonsense would suggest, large communities often require a substantial amount of equipment, and they will now be able to apply for funding in amounts more in line with what they need.

Our bill would provide funding for national fire safety organizations and institutions of higher education that wish to create joint programs establishing fire safety research centers. There is a great need for research devoted to fire safety and prevention and improved technology. The work these centers do will help us reduce fire casualties among firefighters and civilians and make communities safer.

But as important as it is to help our firefighters, we must also demand accountability when we spend taxpayer dollars. For this reason, we require that FEMA create performance management systems for these programs, complete with quantifiable metrics that will allow us to see how well they perform. Going forward, this will allow us to see what works in these programs and what does not so that we can make needed improvements when required.

We have also included provisions to prevent earmarks from being attached to these programs. AFG and SAFER have never been earmarked—an impressive accomplishment—and we want to keep it that way. The funding for these programs needs to go to firefighters, not pet projects.

Finally, this legislation authorizes $950 million each for these vital programs. This is actually less than what was authorized in the past. We believe that supporting our Nation's firefighters and emergency medical service responders ought to be a priority, but we recognize that these tough fiscal times require some belt-tightening. Authorizing funding for AFG and SAFER at these amounts sends the message that Congress can direct funding where it is needed while also showing discipline.

This legislation ensures that fire departments get the support they need to protect their communities while also protecting taxpayer dollars. It addresses a vital national need while increasing accountability to the public. I urge my colleagues to join me in supporting the reauthorization of these important programs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 550

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 ''Fire Grants Reauthorization Act of 2011''.

SEC. 2. AMENDMENTS TO DEFINITIONS.

(a) IN GENERAL.—Section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) is amended—

(1) in paragraph (3), by inserting '', except as otherwise provided,'' after ''means'';

(2) in paragraph (4), by striking '' 'Director' means'' and all that follows through ''Agency;'' and inserting '' 'Administrator of FEMA' means the Administrator of the Federal Emergency Management Agency;'';

(3) in paragraph (5)—

(A) by inserting ''Indian tribe,'' after ''county,''; and

(B) by striking ''and 'firecontrol' '' and inserting ''and 'fire control' '';

(4) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(5) by inserting after paragraph (5), the following:

''(6) 'Indian tribe' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and 'tribal' means of or pertaining to an Indian tribe;'';

(6) by redesignating paragraphs (9) and (10), as redesignated by paragraph (4), as paragraphs (10) and (11);

(7) by inserting after paragraph (8), as redesignated by paragraph (4), the following:

''(9) 'Secretary' means, except as otherwise provided, the Secretary of Homeland Security;'';

(8) by amending paragraph (10), as redesignated by paragraph (6), to read as follows:

''(10) 'State' has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).''.

(b) CONFORMING AMENDMENTS.—

(1) ADMINISTRATOR OF FEMA.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by striking ''Director'' each place it appears and inserting ''Administrator of FEMA''.

(2) ADMINISTRATOR OF FEMA'S AWARD.—Section 15 of such Act (15 U.S.C. 2214) is amended by striking ''Director's Award'' each place it appears and inserting ''Administrator's Award''.

SEC. 3. ASSISTANCE TO FIREFIGHTER GRANTS.

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended to read as follows:

''SEC. 33. FIREFIGHTER ASSISTANCE.

''(a) DEFINITIONS.—In this section:

''(1) AVAILABLE GRANT FUNDS.—The term 'available grant funds', with respect to a fiscal year, means those funds appropriated pursuant to the authorization of appropriations in subsection (p)(1) for such fiscal year less any funds used for administrative costs pursuant to subsection (p)(2) in such fiscal year.

''(2) CAREER FIRE DEPARTMENT.—The term 'career fire department' means a fire department that has an all-paid force of firefighting personnel other than paid-on-call firefighters.

''(3) COMBINATION FIRE DEPARTMENT.—The term 'combination fire department' means a fire department that has—

''(A) paid firefighting personnel; and

''(B) volunteer firefighting personnel.

''(4) FIREFIGHTING PERSONNEL.—The term 'firefighting personnel' means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

''(5) NONAFFILIATED EMS ORGANIZATION.—The term 'nonaffiliated EMS organization' means a public or private nonprofit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the Administrator of FEMA finds that emergency medical services are adequately provided by a fire department.

''(6) PAID-ON-CALL.—The term 'paid-on-call' with respect to firefighting personnel means firefighting personnel who are paid a stipend for each event to which they respond.

''(7) VOLUNTEER FIRE DEPARTMENT.—The term 'volunteer fire department' means a fire department that has an all-volunteer force of firefighting personnel.

''(b) ASSISTANCE PROGRAM.—

''(1) AUTHORITY.—In accordance with this section, the Administrator of FEMA may, in consultation with the Administrator of the United States Fire Administration, award—

''(A) assistance to firefighters grants under subsection (c); and

''(B) fire prevention and safety grants and other assistance under subsection (d).

''(2) ADMINISTRATIVE ASSISTANCE.—The Administrator of FEMA shall—

''(A) establish specific criteria for the selection of grant recipients under this section; and

''(B) provide assistance with application preparation to applicants for such grants.

''(c) ASSISTANCE TO FIREFIGHTERS GRANTS.—

''(1) IN GENERAL.—The Administrator of FEMA may, in consultation with the chief executives of the States in which the recipients are located, award grants on a competitive basis directly to—

''(A) fire departments, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the United States against fire, fire-related, and other hazards;

''(B) nonaffiliated EMS organizations to support the provision of emergency medical services; and

''(C) State fire training academies for the purposes described in subparagraphs (G), (H), and (I) of paragraph (3).

''(2) MAXIMUM GRANT AMOUNTS.—

''(A) POPULATION.—The Administrator of FEMA may not award a grant under this subsection in excess of amounts as follows:

''(i) In the case of a recipient that serves a jurisdiction with 100,000 people or fewer, the amount of the grant awarded to such recipient shall not exceed $1,000,000 in any fiscal year.

''(ii) In the case of a recipient that serves a jurisdiction with more than 100,000 people but not more than 500,000 people, the amount of the grant awarded to such recipient shall not exceed $2,000,000 in any fiscal year.

''(iii) In the case of a recipient that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people, the amount of the grant awarded to such recipient shall not exceed $3,000,000 in any fiscal year.

''(iv) In the case of a recipient that serves a jurisdiction with more than 1,000,000 people but not more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed $6,000,000 for any fiscal year.

''(v) In the case of a recipient that serves a jurisdiction with more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed $9,000,000 in any fiscal year.

''(B) STATE FIRE TRAINING ACADEMIES.—The Administrator of FEMA may not award a grant under this subsection to a State fire training academy in an amount that exceeds $1,000,000 in any fiscal year.

''(C) AGGREGATE.—

''(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B) and except as provided under clause (ii), the Administrator of FEMA may not award a grant under this subsection in a fiscal year in an amount that exceeds the amount that is one percent of the available grant funds in such fiscal year.

''(ii) EXCEPTION.—The Administrator of FEMA may waive the limitation in clause (i) with respect to a grant recipient if the Administrator of FEMA determines that such recipient has an extraordinary need for a grant in an amount that exceeds the limit under clause (i).

''(3) USE OF GRANT FUNDS.—Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

''(A) To train firefighting personnel in—

''(i) firefighting;

''(ii) emergency medical services and other emergency response (including response to natural disasters, acts of terrorism, and other man-made disasters);

''(iii) arson prevention and detection;

''(iv) maritime firefighting; or

''(v) the handling of hazardous materials.

''(B) To train firefighting personnel to provide any of the training described under subparagraph (A).

''(C) To fund the creation of rapid intervention teams to protect firefighting personnel at the scenes of fires and other emergencies.

''(D) To certify—

''(i) fire inspectors; and

''(ii) building inspectors—

''(I) whose responsibilities include fire safety inspections; and

''(II) who are employed by or serving as volunteers with a fire department.

''(E) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel are able to carry out their duties as firefighters.

''(F) To fund emergency medical services provided by fire departments and nonaffiliated EMS organizations.

''(G) To acquire additional firefighting vehicles, including fire trucks and other apparatus.

''(H) To acquire additional firefighting equipment, including equipment for—

''(i) fighting fires with foam in remote areas without access to water; and

''(ii) communications, monitoring, and response to a natural disaster, act of terrorism, or other man-made disaster, including the use of a weapon of mass destruction.

''(I) To acquire personal protective equipment, including personal protective equipment—

''(i) prescribed for firefighting personnel by the Occupational Safety and Health Administration of the Department of Labor; or

''(ii) for responding to a natural disaster or act of terrorism or other man-made disaster, including the use of a weapon of mass destruction.

''(J) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel.

''(K) To educate the public about arson prevention and detection.

''(L) To provide incentives for the recruitment and retention of volunteer firefighting personnel for volunteer firefighting departments and other firefighting departments that utilize volunteers.

''(M) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

''(d) FIRE PREVENTION AND SAFETY GRANTS.—

''(1) IN GENERAL.—For the purpose of assisting fire prevention programs and supporting firefighter health and safety research and development, the Administrator of FEMA may, on a competitive basis—

''(A) award grants to fire departments;

''(B) award grants to, or enter into contracts or cooperative agreements with, national, State, local, tribal, or nonprofit organizations that are not fire departments and that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and firefighter research and development programs, for the purpose of carrying out—

''(i) fire prevention programs; and

''(ii) research to improve firefighter health and life safety; and

''(C) award grants to, or enter into contracts with, regionally accredited institutions of higher education and national fire service organizations or national fire safety organizations to support joint programs focused on reducing firefighter fatalities and non-fatal injuries, including programs for establishing fire safety research centers as the Administrator of FEMA determines appropriate.

''(2) MAXIMUM GRANT AMOUNT.—A grant awarded under this subsection may not exceed $1,500,000 for a fiscal year.

''(3) USE OF GRANT FUNDS.—Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

''(A) To enforce fire codes and promote compliance with fire safety standards.

''(B) To fund fire prevention programs.

''(C) To fund wildland fire prevention programs, including education, awareness, and mitigation programs that protect lives, property, and natural resources from fire in the wildland-urban interface.

''(D) In the case of a grant awarded under paragraph (1)(C), to fund the establishment or operation of—

''(i) a fire safety research center; or

''(ii) a program at such a center.

''(E) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

''(e) APPLICATIONS FOR GRANTS.—

''(1) IN GENERAL.—An entity seeking a grant under this section shall submit to the Administrator of FEMA an application therefor in such form and in such manner as the Administrator of FEMA determines appropriate.

''(2) ELEMENTS.—Each application submitted under paragraph (1) shall include the following:

''(A) A description of the financial need of the applicant for the grant.

''(B) An analysis of the costs and benefits, with respect to public safety, of the use for which a grant is requested.

''(C) An agreement to provide information to the national fire incident reporting system for the period covered by the grant.

''(D) A list of other sources of funding received by the applicant—

''(i) for the same purpose for which the application for a grant under this section was submitted; or

''(ii) from the Federal Government for other fire-related purposes.

''(E) Such other information as the Administrator of FEMA determines appropriate.

''(3) JOINT OR REGIONAL APPLICATIONS.—

''(A) IN GENERAL.—Two or more entities may submit an application under paragraph (1) for a grant under this section to fund a joint program or initiative, including acquisition of shared equipment or vehicles.

''(B) NONEXCLUSIVITY.—Applications under this paragraph may be submitted instead of or in addition to any other application submitted under paragraph (1).

''(C) GUIDANCE.—The Administrator of FEMA shall—

''(i) publish guidance on applying for and administering grants awarded for joint programs and initiatives described in subparagraph (A); and

''(ii) encourage applicants to apply for grants for joint programs and initiatives described in subparagraph (A) as the Administrator of FEMA determines appropriate to achieve greater cost effectiveness and regional efficiency.

''(f) PEER REVIEW OF GRANT APPLICATIONS.—

''(1) IN GENERAL.—The Administrator of FEMA shall, after consultation with national fire service and emergency medical services organizations, appoint fire service personnel and personnel from nonaffiliated EMS organizations to conduct peer reviews of applications received under subsection (e)(1).

''(2) ASSIGNMENT OF REVIEWS.—In administering the peer review process under paragraph (1), the Administrator of FEMA shall ensure that—

''(A) applications submitted by career fire departments are reviewed primarily by personnel from career fire departments;

''(B) applications submitted by volunteer fire departments are reviewed primarily by personnel from volunteer fire departments;

''(C) applications submitted by combination fire departments and fire departments using paid-on-call firefighting personnel are reviewed primarily by personnel from such fire departments; and

''(D) applications for grants to fund emergency medical services pursuant to subsection (c)(3)(F) are reviewed primarily by emergency medical services personnel, including—

''(i) emergency medical service personnel affiliated with fire departments; and

''(ii) personnel from nonaffiliated EMS organizations.

''(3) REVIEW OF APPLICATIONS FOR FIRE PREVENTION AND SAFETY GRANTS SUBMITTED BY NONPROFIT ORGANIZATIONS THAT ARE NOT FIRE DEPARTMENTS.—In conducting a review of an application submitted under subsection (e)(1) by a nonprofit organization described in subsection (d)(1)(B), a peer reviewer may not recommend the applicant for a grant under subsection (d) unless such applicant is recognized for its experience and expertise with respect to—

''(A) fire prevention or safety programs and activities; or

''(B) firefighter research and development programs.

''(4) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities carried out pursuant to this subsection.

''(g) PRIORITIZATION AND ALLOCATION OF GRANT AWARDS.—In awarding grants under this section, the Administrator of FEMA shall—

''(1) consider the findings and recommendations of the peer reviews carried out under subsection (f);

''(2) consider the degree to which an award will reduce deaths, injuries, and property damage by reducing the risks associated with fire-related and other hazards;

''(3) consider the extent of the need of an applicant for a grant under this section and the need to protect the United States as a whole;

''(4) consider the number of calls requesting or requiring a fire fighting or emergency medical response received by an applicant; and

''(5) ensure that of the available grant funds—

''(A) not less than 25 percent are awarded to career fire departments;

''(B) not less than 25 percent are awarded to volunteer fire departments; and

''(C) not less than 25 percent are awarded to combination fire departments and fire departments using paid-on-call firefighting personnel.

''(h) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

''(1) FUNDING FOR EMERGENCY MEDICAL SERVICES.—Not less than 3.5 percent of the available grant funds for a fiscal year shall be awarded under this section for purposes described in subsection (c)(3)(F).

''(2) GRANT AWARDS TO NONAFFILIATED EMS ORGANIZATIONS.—Not more than 2 percent of the available grant funds for a fiscal year shall be awarded under this section to nonaffiliated EMS organizations.

''(3) FUNDING FOR FIRE PREVENTION AND SAFETY GRANTS.—For each fiscal year, not less than 10 percent of the aggregate of grant amounts under this section in that fiscal year shall be awarded under subsection (d).

''(4) STATE FIRE TRAINING ACADEMIES.—Not more than 3 percent of the available grant funds for a fiscal year shall be awarded under subsection (c)(1)(C).

''(5) AMOUNTS FOR PURCHASING FIREFIGHTING VEHICLES.—Not more than 25 percent of the available grant funds for a fiscal year may be used to assist grant recipients to purchase vehicles pursuant to subsection (c)(3)(G).

''(i) FURTHER CONSIDERATIONS.—

''(1) ASSISTANCE TO FIREFIGHTERS GRANTS TO FIRE DEPARTMENTS.—In considering applications for grants under subsection (c)(1)(A), the Administrator of FEMA shall consider the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property.

''(2) APPLICATIONS FROM NONAFFILIATED EMS ORGANIZATIONS.—In the case of an application submitted under subsection (e)(1) by a nonaffiliated EMS organization, the Administrator of FEMA shall consider the extent to which other sources of Federal funding are available to the applicant to provide the assistance requested in such application.

''(3) AWARDING FIRE PREVENTION AND SAFETY GRANTS TO CERTAIN ORGANIZATIONS THAT ARE NOT FIRE DEPARTMENTS.—In the case of applicants for grants under this section who are described in subsection (d)(1)(B), the Administrator of FEMA shall give priority to applicants who focus on—

''(A) prevention of injuries to high risk groups from fire; and

''(B) research programs that demonstrate a potential to improve firefighter safety.

''(4) AVOIDING DUPLICATION.—The Administrator of FEMA shall review lists submitted by applicants pursuant to subsection (e)(2)(D) and take such actions as the Administrator of FEMA considers necessary to prevent unnecessary duplication of grant awards.

''(j) MATCHING AND MAINTENANCE OF EXPENDITURE REQUIREMENTS.—

''(1) MATCHING REQUIREMENT FOR ASSISTANCE TO FIREFIGHTERS GRANTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an applicant seeking a grant to carry out an activity under subsection (c) shall agree to make available non-Federal funds to carry out such activity in an amount equal to not less than 15 percent of the grant awarded to such applicant under such subsection.

''(B) EXCEPTION FOR ENTITIES SERVING SMALL COMMUNITIES.—In the case that an applicant seeking a grant to carry out an activity under subsection (c) serves a jurisdiction of—

''(i) more than 20,000 residents but not more than 50,000 residents, the applicant shall agree to make available non-Federal funds in an amount equal to not less than 10 percent of the grant award to such applicant under such subsection; or

''(ii) 20,000 residents or fewer, the applicant shall agree to make available non-Federal funds in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

''(2) MATCHING REQUIREMENT FOR FIRE PREVENTION AND SAFETY GRANTS.—

''(A) IN GENERAL.—An applicant seeking a grant to carry out an activity under subsection (d) shall agree to make available

non-Federal funds to carry out such activity in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

''(B) MEANS OF MATCHING.—An applicant for a grant under subsection (d) may meet the matching requirement under subparagraph (A) through direct funding, funding of complementary activities, or the provision of staff, facilities, services, material, or equipment.

''(3) MAINTENANCE OF EXPENDITURES.—An applicant seeking a grant under subsection (c) or (d) shall agree to maintain during the term of the grant the applicant's aggregate expenditures relating to the uses described in subsections (c)(3) and (d)(3) at not less than 80 percent of the average amount of such expenditures in the 2 fiscal years preceding the fiscal year in which the grant amounts are received.

''(4) WAIVER.—

''(A) IN GENERAL.—Except as provided in subparagraph (C)(ii), the Administrator of FEMA may waive or reduce the requirements of paragraphs (1), (2), and (3) in cases of demonstrated economic hardship.

''(B) GUIDELINES.—

''(i) IN GENERAL.—The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship for purposes of this paragraph.

''(ii) CONSIDERATIONS.—In developing guidelines under clause (i), the Administrator of FEMA shall consider, with respect to relevant communities, the following:

''(I) Changes in rates of unemployment from previous years.

''(II) Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded the annual national average rates of unemployment.

''(III) Changes in percentages of individuals eligible to receive food stamps from previous years.

''(IV) Such other factors as the Administrator of FEMA considers appropriate.

''(C) CERTAIN APPLICANTS FOR FIRE PREVENTION AND SAFETY GRANTS.—The authority under subparagraph (A) shall not apply with respect to a nonprofit organization that—

''(i) is described in subsection (d)(1)(B); and

''(ii) is not a fire department or emergency medical services organization.

''(k) GRANT GUIDELINES.—

''(1) GUIDELINES.—For each fiscal year, prior to awarding any grants under this section, the Administrator of FEMA shall publish in the Federal Register—

''(A) guidelines that describe—

''(i) the process for applying for grants under this section; and

''(ii) the criteria that will be used for selecting grant recipients; and

''(B) an explanation of any differences between such guidelines and the recommendations obtained under paragraph (2).

''(2) ANNUAL MEETING TO OBTAIN RECOMMENDATIONS.—

''(A) IN GENERAL.—For each fiscal year, the Administrator of FEMA shall convene a meeting of qualified members of national fire service organizations and qualified members of emergency medical service organizations to obtain recommendations regarding the following:

''(i) Criteria for the awarding of grants under this section.

''(ii) Administrative changes to the assistance program established under subsection (b).

''(B) QUALIFIED MEMBERS.—For purposes of this paragraph, a qualified member of an organization is a member who—

''(i) is recognized for expertise in firefighting or emergency medical services;

''(ii) is not an employee of the Federal Government; and

''(iii) in the case of a member of an emergency medical service organization, is a member of an organization that represents—

''(I) providers of emergency medical services that are affiliated with fire departments; or

''(II) nonaffiliated EMS providers.

''(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities carried out pursuant to this subsection.

''(l) ACCOUNTING DETERMINATION.—Notwithstanding any other provision of law, for purposes of this section, equipment costs shall include all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

''(m) ELIGIBLE GRANTEE ON BEHALF OF ALASKA NATIVE VILLAGES.—The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be eligible to apply for and receive a grant or other assistance under this section on behalf of Alaska Native villages.

''(n) TRAINING STANDARDS.—If an applicant for a grant under this section is applying for such grant to purchase training that does not meet or exceed any applicable national voluntary consensus standards developed under section 647 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 747), the applicant shall submit to the Administrator of FEMA an explanation of the reasons that the training proposed to be purchased will serve the needs of the applicant better than training that meets or exceeds such standards.

''(o) ENSURING EFFECTIVE USE OF GRANTS.—

''(1) AUDITS.—The Administrator of FEMA may audit a recipient of a grant awarded under this section to ensure that—

''(A) the grant amounts are expended for the intended purposes; and

''(B) the grant recipient complies with the requirements of subsection (j).

''(2) PERFORMANCE ASSESSMENT.—

''(A) IN GENERAL.—The Administrator of FEMA shall develop and implement a performance assessment system, including quantifiable performance metrics, to evaluate the extent to which grants awarded under this section are furthering the purposes of this section, including protecting the health and safety of the public and firefighting personnel against fire and fire-related hazards.

''(B) CONSULTATION.—The Administrator of FEMA shall consult with fire service representatives and with the Comptroller General of the United States in developing the assessment system required by subparagraph (A).

''(3) ANNUAL REPORTS TO ADMINISTRATOR OF FEMA.—The recipient of a grant awarded under this section shall submit to the Administrator of FEMA an annual report describing how the recipient used the grant amounts.

''(4) ANNUAL REPORTS TO CONGRESS.—

''(A) IN GENERAL.—Not later than September 30, 2012, and each year thereafter through 2016, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology of the House of Representatives a report that provides—

''(i) information on the performance assessment system developed under paragraph (2); and

''(ii) using the performance metrics developed under such paragraph, an evaluation of the effectiveness of the grants awarded under this section.

''(B) ADDITIONAL INFORMATION.—The report due under subparagraph (A) on September 30, 2015, shall also include recommendations for legislative changes to improve grants under this section, including recommendations as to whether the provisions described in section 5(a) of the Fire Grants Reauthorization Act of 2011 should be extended to apply on and after the date described in such section.

''(p) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section—

''(A) $950,000,000 for fiscal year 2012; and

''(B) for each of fiscal years 2013 through 2016, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—

''(i) the Consumer Price Index (all items, United States city average) for the previous fiscal year, exceeds

''(ii) the Consumer Price Index for the fiscal year preceding the fiscal year described in clause (i).

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts for salaries and expenses and other administrative costs incurred by the Administrator of FEMA in the course of awarding grants and providing assistance under this section.

''(3) CONGRESSIONALLY DIRECTED SPENDING.—Consistent with the requirements in subsections (c)(1) and (d)(1) that grants under those subsections be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally directed spending item (as such term is defined in paragraph 5(a) of rule XLIV of the Standing Rules of the Senate).''.

SEC. 4. STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE.

(a) IMPROVEMENTS TO HIRING GRANTS.—

(1) TERM OF GRANTS.—Subsection (a)(1)(B) of section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a) is amended by striking ''4 years'' and inserting ''3 years''.

(2) LIMITATION ON PORTION OF COSTS OF HIRING FIREFIGHTERS.—Subsection (a)(1)(E) of such section 34 is amended by striking ''not exceed—'' and all that follows through the period and inserting ''not exceed 75 percent in any fiscal year.''.

(b) CLARIFICATION REGARDING ELIGIBLE ENTITIES FOR RECRUITMENT AND RETENTION GRANTS.—The second sentence of subsection (a)(2) of such section 34 is amended by striking ''organizations on a local or statewide basis'' and inserting ''national, State, local, or tribal organizations''.

(c) MAXIMUM AMOUNT FOR HIRING FIREFIGHTER.—Paragraph (4) of subsection (c) of such section 34 is amended to read as follows:

''(4) The amount of funding provided under this section to a recipient fire department for hiring a firefighter in any fiscal year may not exceed 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted.''.

(d) WAIVERS.—Such section 34 is further amended—

(1) by redesignating subsections (d) through (i) as subsection (e) through (j), respectively; and

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

''(d) WAIVERS.—

''(1) IN GENERAL.—In a case of demonstrated economic hardship, the Administrator of FEMA may—

''(A) waive the requirements of subsection (a)(1)(B)(ii) or subsection (c)(1); or

''(B) waive or reduce the requirements in subsection (a)(1)(E) or subsection (c)(2).

''(2) GUIDELINES.—

''(A) IN GENERAL.—The Administrator of FEMA shall establish and publish guidelines

for determining what constitutes economic hardship for purposes of paragraph (1).

''(B) CONSIDERATIONS.—In developing guidelines under subparagraph (A), the Administrator of FEMA shall consider, with respect to relevant communities, the following:

''(i) Changes in rates of unemployment from previous years.

''(ii) Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded the annual national average rates of unemployment.

''(iii) Changes in percentages of individuals eligible to receive food stamps from previous years.

''(iv) Such other factors as the Administrator of FEMA considers appropriate.''.

(e) IMPROVEMENTS TO PERFORMANCE EVALUATION REQUIREMENTS.—Subsection (e) of such section 34, as redesignated by subsection (d)(1) of this section, is amended by inserting before the first sentence the following:

''(1) IN GENERAL.—The Administrator of FEMA shall establish a performance assessment system, including quantifiable performance metrics, to evaluate the extent to which grants awarded under this section are furthering the purposes of this section.

''(2) SUBMISSION OF INFORMATION.—''.

(f) REPORT.—

(1) IN GENERAL.—Subsection (f) of such section 34, as redesignated by subsection (d)(1) of this section, is amended by striking ''The authority'' and all that follows through ''Congress concerning'' and inserting the following: ''Not later than September 30, 2015, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology of the House of Representatives a report on''.

(2) CONFORMING AMENDMENT.—The heading for such subsection (f) is amended by striking ''SUNSET AND REPORTS'' and inserting ''REPORT''.

(g) ADDITIONAL DEFINITIONS.—

(1) IN GENERAL.—Subsection (i) of such section 34, as redesignated by subsection (d)(1) of this section, is amended—

(A) in the matter before paragraph (1), by striking ''In this section, the term—'' and inserting ''In this section:'';

(B) in paragraph (1)—

(i) by inserting ''The term'' before '' 'firefighter' has''; and

(ii) by striking ''; and'' and inserting a period;

(C) by striking paragraph (2); and

(D) by inserting at the end the following:

''(2) The terms 'career fire department', 'combination fire department', and 'volunteer fire department' have the meaning given such terms in section 33(a).''.

(2) CONFORMING AMENDMENT.—Subsection (a)(1)(A) of such section 34 is amended by striking ''career, volunteer, and combination fire departments'' and inserting ''career fire departments, combination fire departments, and volunteer fire departments''.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subsection (j) of such section 34, as redesignated by subsection (d)(1) of this section, is amended—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(8) $950,000,000 for fiscal year 2012; and

''(9) for each of fiscal years 2013 through 2016, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the previous fiscal year, exceeds

''(B) the Consumer Price Index for the fiscal year preceding the fiscal year described in subparagraph (A).''.

(2) ADMINISTRATIVE EXPENSES.—Such subsection (j) is further amended—

(A) in paragraph (9), as added by paragraph (1) of this subsection, by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the left margin of such clauses, as so redesignated, 2 ems to the right;

(B) by redesignating paragraphs (1) through (9) as subparagraphs (A) through (I), respectively, and moving the left margin of such subparagraphs, as so redesignated, 2 ems to the right;

(C) by striking ''There are'' and inserting the following:

''(1) IN GENERAL.—There are''; and

(D) by adding at the end the following:

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts to cover salaries and expenses and other administrative costs incurred by the Administrator of FEMA to make grants and provide assistance under this section.''.

(3) CONGRESSIONALLY DIRECTED SPENDING.—Such subsection (j) is further amended by adding at the end the following:

''(3) CONGRESSIONALLY DIRECTED SPENDING.—Consistent with the requirement in subsection (a) that grants under this section be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally direct spending item (as defined in paragraph 5(a) of Rule XLIV of the Standing Rules of the Senate).''.

(i) TECHNICAL AMENDMENT.—Such section 34 is amended—

(1) in subsection (a), in paragraphs (1)(A) and (2), by striking ''Administrator shall'' and inserting ''Administrator of FEMA shall, in consultation with the Administrator,''; and

(2) by striking ''Administrator'' each place it appears, other than in subsection (a)(1)(A) and (a)(2), and inserting ''Administrator of FEMA''.

(j) CLERICAL AMENDMENT.—Section 34 of such Act (15 U.S.C. 2229a) is amended by striking ''**EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM**'' and inserting the following: ''**STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE**''.

SEC. 5. SUNSET AND PRIOR PROVISIONS.

(a) SUNSET.—Section 3 and subsections (a), (c), (d), (e), (f), (g), and (h) of section 4, and the amendments made by such section and subsections shall not apply on or after October 1, 2016.

(b) APPLICATION OF PRIOR LAW.—On and after October 1, 2016, sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 and 2229a) are amended to read as such sections read on the day before the date of the enactment of this Act, except that the amendments made by subsections (b), (i), and (j) of section 4 shall continue to apply to such section 34.

SEC. 6. REPORT.

Not later than September 30, 2015, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology of the House of Representatives a report on the effect of the amendments made by this Act. Such report shall include the following:

(1) An assessment of the effect of the amendments made by sections 3 and 4 on the effectiveness, relative allocation, accountability, and administration of the grants awarded under sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 and 2229a) after the date of the enactment of this Act .

(2) An evaluation of the extent to which the amendments made by sections 3 and 4 have enabled recipients of grants awarded under such sections 33 and 34 after the date of the enactment of this Act to mitigate fire and fire-related and other hazards more effectively.

Ms. COLLINS. Mr. President, I am proud to once again cosponsor the Fire Grants Reauthorization Act. I am pleased to join with Senators LIEBERMAN, BROWN, and CARPER in this effort to reauthorize these vital programs. I have always been an ardent supporter of our Nation's fire services. In addition to serving as a cochair of the Congressional Fire Services Caucus, I was a cosponsor of the original FIRE Act, and an original cosponsor of the FIRE Act reauthorization bills in 2004 and in 2010. Unfortunately, last year's bill did not become law.

The FIRE Act grants program provides fire departments with the support they need to purchase equipment and vehicles, and to conduct the training and exercises necessary to perform their jobs well. Indeed, this is one of the most successful programs administered by the Department of Homeland Security.

The FIRE Act grants program is an efficient and effective model for delivering grant funding because it has a competitive process for evaluating applications, which are peer-reviewed. It is also successful because monies are provided directly to local fire departments. This bipartisan legislation would retain and build upon these aspects of the FIRE Act program that made it successful in the first place.

In visits across the State of Maine, I have seen first-hand how these grants build the critical response capabilities of local fire departments. Maine has received more than $50 million through the FIRE Act grants program—a testament to the needs of our often rural, volunteer fire departments and proof that the program is succeeding in delivering funds to communities that need it most.

Independent analyses have confirmed that the FIRE Act grants program has been effective. To quote a 2007 study by the National Academy of Public Administration, ''From the standpoint of administrative efficiency, there is broad agreement among stakeholders and observers that the program has been well run. It is a positive case study in the management of a grant program by a government agency.''

I believe this bill will increase the capabilities of our Nation's fire services, and protect the thousands of firefighters and EMTs who put their lives on the line every day.

By Mr. SANDERS (for himself and Ms. MIKULSKI):

S. 552. A bill to reduce the Federal budget deficit by creating a surtax on high income individuals and eliminating big oil and gas company tax

loopholes; to the Committee on Finance.

Mr. SANDERS. Mr. President, I will try to bring this budget debate down to Earth and talk a little bit about the reality of what is happening and go beyond the amount of numbers that are out there.

My good friend from Alabama who sits with me on the Budget Committee makes the point that this country has a severe budget crisis. He is right. The question is, How did we get to where we are today and how do we go forward in a way that is fair and responsible to address it? In that regard, the Senator from Alabama and I have very strong disagreements.

How did we get to where we are today when not so many years ago, the day George W. Bush became President, we had a significant surplus? We had a surplus when Clinton left office. Now we have a major deficit crisis. There are a number of reasons:

No. 1, against my vote, we are fighting a war in Iraq which, by the time we take care of our last veteran, is going to cost us some $3 trillion. I didn't hear any of my Republican friends saying we can't go to war unless we figure out a way to pay for it.

No. 2, my Republican friends for years have been pushing huge tax breaks for the very wealthiest people. I didn't hear them ask how that was going to be paid for.

No. 3, under President Bush, with strong Republican support and against my vote, Congress passed a $400 billion-plus Medicare Part D prescription drug program, written by the insurance companies and the drug companies. It drove up the deficit.

No. 4, against my vote, Congress voted for a massive bailout of Wall Street. I didn't hear too many people talking about how we would pay for that, $700 billion to bail out Wall Street. I didn't hear them arguing that it was too much money and it would drive up the deficit.

Yesterday, the Republicans brought forth and voted on H.R. 1. Almost all of them voted for it. Those who did not actually wanted to go further.

The main point I wish to make is, A, we do have to address the deficit crisis, but, B, we have to address it in a way that is fair and responsible and not solely on the backs of working families, the middle class, the elderly, the sick, and the poor. That is immoral. That is wrong. That is bad economics.

To my mind, it is absolutely absurd that when my Republican friends talk about deficit reduction, they forget to talk about the reality that the wealthiest people have never had it so good; that the effective, the real tax rate for the richest people is the lowest on record; and that the wealthiest people, the top 2 percent, have received many hundreds of billions of dollars in tax breaks.

I ask my Republican friends, why do they want to balance the budget on the backs of low-income children, low-income senior citizens, those who are sick, those who are vulnerable, without asking the wealthiest people who have never had it so good to put one penny into deficit reduction? I think that is wrong, and the American people think that is wrong. When we talk about deficit reduction, we have to talk about shared sacrifice, everybody playing a role, not just little kids, not just the elderly, not just the sick, but even—dare I say it—people who have a whole lot of money and who have never done so well.

I have not been impressed at how the media has been covering this issue. They have not made it clear to the American people how devastating the cuts are that Republicans want to impose on working families. Let me briefly tick off some of them.

The Republicans want to throw over 200,000 children off of the Head Start Program. Every working family in America knows how hard it is today to come up with affordable childcare, early childhood education. We have the highest rate of childhood poverty in the industrialized world. The Republican solution is to slash Head Start by 20 percent, cut 218,000 kids off of Head Start, and lay off 55,000 Head Start instructors.

The cost of college education today is so high that many young people are giving up their dream of going to college, while many others are graduating deeply in debt. Republican solution: Slash Pell grants by $5.7 billion and reduce or eliminate Pell grants for 9.4 million low-income college students. Middle-class families, working-class families, do they hear that? We are going to balance the budget by either eliminating or lowering Pell grants—the ability of young people to go to college—for over 9 million college students.

I know in my office we get calls every week from senior citizens, people with disabilities, widows who are having a hard time getting a timely response toward their Social Security claims. It takes too long to process the paperwork. What the Republicans want to do is slash the Social Security Administration, the people who administer Social Security for seniors and the disabled, widows and orphans, by $1.7 billion. That means half a million Americans who are legally entitled to Social Security benefits will have to wait significantly longer times in order to receive them.

We have 50 million Americans with no health insurance today, and 45,000 Americans die because they don't get to a doctor in time. Last year, as part of health care reform, I worked very hard with many Members to expand community health centers so that more and more low-and moderate-income people could walk into a doctor's office, get health care, dental care, low-cost prescription drugs, mental health counseling. In H.R. 1, the bill they voted for yesterday, Republicans want to deny primary health care to 11 million Americans at a time when State after State is cutting back on Medicaid. What are you supposed to do if you are 50 years old, you have a pain in your chest, and you don't have any health insurance? Where do you go? Republicans want to deny health care to another 11 million Americans.

For the poorest people, community services block grants provide the infrastructure, the ability to get out emergency food help, emergency help to pay the electric bill, LIHEAP. They are the infrastructure of this country that protects the poorest and most vulnerable. Republicans want to slash $405 million from the Community Services Block Grant Program. That is wrong. And the President's proposed cut to the community services block grant is also wrong.

In real terms, 16 percent of our population today is really unemployed, if we add together the official unemployment—those people who have given up looking for work, those people who work part time and want to work full time. Republicans want to slash $2 billion in Federal job-training programs.

Republicans want to slash $400 million in LIHEAP. That is the program that in my State and all over the country enables people to stay warm in the winter. We have a lot of senior citizens in Vermont getting by on $13,000 or $14,000 a year in income. They need help. It gets cold in Vermont. It gets 20 below zero. People don't have the income. LIHEAP is a very valuable tool. Republicans want to slash $100 million for LIHEAP.

They want to slash the EPA by 30 percent. These are the people who have successfully enforced the Clean Air Act, the Clean Water Act, so that the air we breathe does not give us asthma, doesn't provide us with the soup that makes us sick. The Clean Air Act has been an enormous success in cleaning up our air. Republicans want to slash that by 30 percent.

Republicans want to cut the WIC Program. This is the program that provides supplemental nutrition for women, infants, and children. They want to cut that by $750 million. Poverty in America is increasing. What we understand is that if pregnant women and little kids do not get good nutrition, the likelihood is that births might be low weight or the little babies might come down with illnesses if they don't have good nutrition. Poverty is increasing. Yet the Republicans want to cut the WIC Program by $750 million—10 percent.

Title I education funding. Everybody understands we have problems with education right now, with large dropout rates. Republicans want to cut $5 billion from the Department of Education.

On and on and on it goes.

What do I think? Do I think it is appropriate we balance the budget on low-income pregnant women and infants who need nutrition? Do I think you should throw 200,000 kids off the

Head Start Program? Do I think we cut the Social Security Administration severely? Do I think we cut Planned Parenthood, which has done such a good job in preventing unwanted pregnancies? Does that make sense? I do not think so. I do not think that is good for America.

But I do believe we have to move toward a balanced budget. So what is one way to go forward, other than savage cuts on programs for the most vulnerable people in this country? That is, I think we have to begin talking about revenue, not just cuts.

Today I am introducing legislation which does two things. No. 1, it creates a millionaire's surtax, which will be used strictly for deficit reduction. It will be a 5.4-percent surtax on income over $1 million. That says that all households that have income over $1 million will pay a 5.4-percent surtax on that income, which will go into an emergency deficit reduction fund. Just doing that—asking millionaires to pay a little bit more in taxes, after all the huge tax breaks they have received—will bring in approximately $50 billion a year.

I think that is a good idea, but it is not just me who thinks it is a good idea. Recently, last week, there was an NBC News/Wall Street Journal poll, and they asked the American people: What is the best way to go forward on deficit reduction? Mr. President, 81 percent of the American people believe it is totally acceptable or mostly acceptable to impose a surtax on millionaires to reduce the deficit.

The American people get it. They understand you cannot move toward deficit reduction just by cutting programs that working families, the middle class, and low-income people desperately need in order to survive in the midst of this terrible recession. They understand serious, responsible deficit reduction requires shared sacrifice. It is insane—and I use that word advisably—it is insane to be talking about deficit reduction, as my Republican friends do on one hand, and then say: Oh, yes, we have to give hundreds and hundreds of billions of dollars in tax breaks to the top 1 percent, the top 2 percent, when those guys are doing phenomenally well, are seeing an effective tax rate lower than it has been in decades and have received huge tax breaks already.

Why does anyone think it is moral or right to move toward deficit reduction on the backs of the weak and the vulnerable? I understand—and I know something about politics—I do understand the parents of kids who are in Head Start do not make large campaign contributions. I know the senior citizens of this country who need some help with Social Security do not make large campaign contributions. I understand that. I understand college students, desperately trying to go through college on a Pell grant, do not make large campaign contributions.

But there is a sense of morality we have to deal with. I think it makes no sense, I think it is immoral, I think it is bad economics to balance the budget on the backs of working families, while we give continued tax breaks to those people who do not need it.

So today we are introducing a piece of legislation which I hope will have strong support. I think it paves the way for us to go forward with serious deficit reduction in a way that is fair. Do we need to make cuts? Absolutely. But do we also need to ask the wealthiest people in this country to start contributing toward deficit reduction? I think we do.

Once again, the legislation I am introducing today creates a millionaire's surtax of 5.4 percent, which would bring in about $50 billion a year, to be used exclusively for an emergency deficit reduction fund.

We also end tax breaks for big oil and gas companies, which will bring in about $3.5 billion a year. Over the past decade, the five largest oil companies in the United States have earned nearly $1 trillion in profits. Meanwhile, in recent years, some of the very largest oil companies in America have paid absolutely nothing in Federal income taxes. In fact, some of them have actually gotten a refund, a rebate from the IRS.

So that is my plea. My plea is that, yes, the need for deficit reduction is real. It is urgent. Let's go forward, but let's go forward in a way that is fair and responsible and not simply on the backs of the most vulnerable people in this country.

By Mr. FRANKEN (for himself, Mr. HARKIN, Mr. KERRY, Mrs. MURRAY, Ms. KLOBUCHAR, Mr. MERKLEY, Mr. DURBIN, Mr. LAUTENBERG, Mr. BENNET, Mr. BLUMENTHAL, Mr. UDALL of Colorado, Ms. MIKULSKI, Mr. LEAHY, Mr. SANDERS, Mr. BINGAMAN, Mr. WHITEHOUSE, Mr. CARDIN, Mrs. BOXER, Mrs. GILLIBRAND, Mr. MENENDEZ, Mr. AKAKA, Mr. SCHUMER, Mr. WYDEN, Mr. BEGICH, Mr. CASEY, Ms. CANTWELL, Mr. BROWN of Ohio, Mrs. SHAHEEN, Mr. REED, and Mr. COONS):

S. 555. A bill to end discrimination based on actual or perceived sexual orientation or gender identity in public schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRANKEN. Mr. President, I wish to tell you about a teenager whom I think you know about—Justin Aaberg—from our home State of Minnesota. Yesterday should have been Justin's 16th birthday. Justin was a kind young man, friendly and cheerful, a budding composer, but he was also the target for bullies at his high school, who targeted him because he was different—because he was gay.

I never had the opportunity to meet Justin. His family lost him to suicide last summer. The Presiding Officer knows that. But you and I have been privileged to meet his mother Tammy. I have been privileged to meet her a few times. She is incredible. She has been speaking out to protect other kids. Because, unfortunately, there are a lot of other kids out there struggling to get through school as they suffer from bullying and harassment and discrimination at their public schools. Nine out of ten LGBT students are harassed or bullied or taunted in school. This harassment deprives them of an equal education. They are more likely to skip school, they are less likely to perform well academically, and they are more likely to drop out before they graduate from high school.

In some tragic cases, such as Justin's, the harassment of LGBT students can even lead to suicide. We have seen this in all too many cases all over the country, because, sadly, this problem is so much broader than Justin. More than a third—more than a third—of lesbian, gay, and bisexual youth have made a suicide attempt. More than a third. That is horrifying beyond belief to me.

We are failing these kids. That is why I, along with 29 of my Senate colleagues, including the Presiding Officer, have reintroduced the Student Nondiscrimination Act today. While Federal civil rights laws prohibit discrimination on the basis of race, color, sex, religion, disability, and national origin, they do not expressly cover sexual origin or gender identity. As a result, parents of LGBT students have limited legal recourse when schools fail to protect their children from harassment and bullying.

You might be wondering why I am mentioning bullying and discrimination in the same breath. It is simple: When a school acts to protect kids with disabilities from bullying but looks the other way when LGBT kids are harassed by their peers, that is discrimination. When school staff members participate in or encourage bullying of LGBT youth, that is discrimination. When a principal excuses a bully who torments an LGBT kid with ''boys will be boys,'' this is discrimination and needs to stop. It needs to stop before more kids are hurt.

The Student Nondiscrimination Act would prohibit discrimination and harassment in public schools based on sexual orientation and gender identity. It would give LGBT students similar civil rights protections against bullying and harassment as those that currently apply to students based on characteristics such as race and gender.

This legislation would also provide meaningful remedies for discrimination in public schools based on sexual orientation or gender identity, modeled on Title IX's protection against discrimination and harassment based on gender. Fifty years of civil rights history shows that similar laws that contain such remedies are often most effective in preventing discrimination from occurring in the first place. Like other civil rights laws, the one we introduce today would prompt schools to

avoid liability by taking proactive steps to prevent the discrimination and bullying of students protected by the bill.

I guarantee you that when this bill is passed, nearly every school district in this country is going to go to its lawyer and ask, ''How do we come into compliance?'' I guarantee you that the U.S. Department of Education will issue regulations, as it has under Title IX, so that schools have guidance in how to protect these kids. The goal isn't for any school to be sued for failing to protect kids from bullying and harassment. The goal isn't for any school to come under Department of Education scrutiny. The goal is for schools to do all they can to ensure these incidents never happen in the first place.

Parents in Minnesota and across the country entrust their children to public schools with the understanding that these schools will do everything in their power to keep their children safe. When 9 in 10 LGBT kids are bullied at school, when they are three times more likely than straight kids to feel unsafe at school, when one third of LGBT kids say they have skipped a day of school in the last month because of feeling unsafe, then we know that our public education system is not fulfilling its most basic obligation to parents to keep children safe. We have an obligation to do something about it.

Yesterday, Justin Aaberg from Minnesota should have celebrated his 16th birthday with family and friends. But instead, I know that his family and friends were missing him terribly—are still missing him terribly.

No child should have to go through the pain that Justin went through at school. No mom or dad should have to go through the heartbreaking pain that Justin's family has gone through. It is time. It is time that we extend equal rights to LGBT students. We have the opportunity now, as we reform No Child Left Behind—the ESEA, the Elementary and Secondary Education Act—to include this legislation. Our children cannot afford for us to squander this opportunity. I urge my colleagues to join me today in supporting the Student Non-Discrimination Act and demanding protection for all of our children under the law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 555

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 ''Student Non-Discrimination Act of 2011''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Public school students who are lesbian, gay, bisexual, or transgender (referred to in this Act as ''LGBT''), or are perceived to be LGBT, or who associate with LGBT people, have been and are subjected to pervasive discrimination, including harassment, bullying, intimidation, and violence, and have been deprived of equal educational opportunities, in schools in every part of the Nation.

(2) While discrimination, including harassment, bullying, intimidation, and violence, of any kind is harmful to students and to the education system, actions that target students based on sexual orientation or gender identity represent a distinct and especially severe problem.

(3) Numerous social science studies demonstrate that discrimination, including harassment, bullying, intimidation, and violence, at school has contributed to high rates of absenteeism, dropping out, adverse health consequences, and academic underachievement, among LGBT youth.

(4) When left unchecked, discrimination, including harassment, bullying, intimidation, and violence, in schools based on sexual orientation or gender identity can lead, and has led, to life-threatening violence and to suicide.

(5) Public school students enjoy a variety of constitutional rights, including rights to equal protection, privacy, and free expression, which are infringed when school officials engage in or are indifferent to discrimination, including harassment, bullying, intimidation, and violence, on the basis of sexual orientation or gender identity.

(6) While Federal statutory provisions expressly address discrimination on the basis of race, color, sex, religion, disability, and national origin, Federal civil rights statutes do not expressly address discrimination on the basis of sexual orientation or gender identity. As a result, students and parents have often had limited recourse to law for remedies for discrimination on the basis of sexual orientation or gender identity.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that all students have access to public education in a safe environment free from discrimination, including harassment, bullying, intimidation, and violence, on the basis of sexual orientation or gender identity;

(2) to provide a comprehensive Federal prohibition of discrimination in public schools based on actual or perceived sexual orientation or gender identity;

(3) to provide meaningful and effective remedies for discrimination in public schools based on actual or perceived sexual orientation or gender identity;

(4) to invoke congressional powers, including the power to enforce the 14th Amendment to the Constitution and to provide for the general welfare pursuant to section 8 of article I of the Constitution and the power to make all laws necessary and proper for the execution of the foregoing powers pursuant to section 8 of article I of the Constitution, in order to prohibit discrimination in public schools on the basis of sexual orientation or gender identity; and

(5) to allow the Department of Education to effectively combat discrimination based on sexual orientation or gender identity in public schools, through regulation and enforcement, as the Department has issued regulations under and enforced title IX of the Education Amendments of 1972 and other nondiscrimination laws in a manner that effectively addresses discrimination.

SEC. 3. DEFINITIONS AND RULE.

(a) DEFINITIONS.—For purposes of this Act:

(1) EDUCATIONAL AGENCY.—The term ''educational agency'' means a local educational agency, an educational service agency, and a State educational agency, as those terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) GENDER IDENTITY.—The term ''gender identity'' means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

(3) HARASSMENT.—The term ''harassment'' means conduct that is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from a program or activity of a public school or educational agency, or to create a hostile or abusive educational environment at a program or activity of a public school or educational agency, including acts of verbal, nonverbal, or physical aggression, intimidation, or hostility, if such conduct is based on—

(A) a student's actual or perceived sexual orientation or gender identity; or

(B) the actual or perceived sexual orientation or gender identity of a person with whom a student associates or has associated.

(4) PROGRAM OR ACTIVITY.—The terms ''program or activity'' and ''program'' have the same meanings given such terms as applied under section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a) to the operations of public entities under paragraph (2)(B) of such section.

(5) PUBLIC SCHOOL.—The term ''public school'' means an elementary school (as the term is defined in section 9101 of the Elementary and Secondary Education Act of 1965) that is a public institution, and a secondary school (as so defined) that is a public institution.

(6) SEXUAL ORIENTATION.—The term ''sexual orientation'' means homosexuality, heterosexuality, or bisexuality.

(7) STUDENT.—The term ''student'' means an individual who is enrolled in a public school or who, regardless of official enrollment status, attends classes or participates in the programs or activities of a public school or educational agency.

(b) RULE.—Consistent with Federal law, in this Act the term ''includes'' means ''includes but is not limited to''.

SEC. 4. PROHIBITION AGAINST DISCRIMINATION.

(a) IN GENERAL.—No student shall, on the basis of actual or perceived sexual orientation or gender identity of such individual or of a person with whom the student associates or has associated, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) HARASSMENT.—For purposes of this Act, discrimination includes harassment of a student on the basis of actual or perceived sexual orientation or gender identity of such student or of a person with whom the student associates or has associated.

(c) RETALIATION PROHIBITED.—

(1) PROHIBITION.—No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination, retaliation, or reprisal under any program or activity receiving Federal financial assistance based on the person's opposition to conduct made unlawful by this Act.

(2) DEFINITION.—For purposes of this subsection, ''opposition to conduct made unlawful by this Act'' includes—

(A) opposition to conduct reasonably believed to be made unlawful by this Act;

(B) any formal or informal report, whether oral or written, to any governmental entity, including public schools and educational agencies and employees of the public schools or educational agencies, regarding conduct made unlawful by this Act or reasonably believed to be made unlawful by this Act;

(C) participation in any investigation, proceeding, or hearing related to conduct made unlawful by this Act or reasonably believed to be made unlawful by this Act; and

(D) assistance or encouragement provided to any other person in the exercise or enjoyment of any right granted or protected by this Act,

if in the course of that expression, the person involved does not purposefully provide information known to be false to any public school or educational agency or other governmental entity regarding conduct made unlawful, or reasonably believed to be made unlawful, by this Act.

SEC. 5. FEDERAL ADMINISTRATIVE ENFORCEMENT; REPORT TO CONGRESSIONAL COMMITTEES.

(a) REQUIREMENTS.—Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 4 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President.

(b) ENFORCEMENT.—Compliance with any requirement adopted pursuant to this section may be effected—

(1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found; or

(2) by any other means authorized by law, except that no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means.

(c) REPORTS.—In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House of Representatives and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until 30 days have elapsed after the filing of such report.

SEC. 6. CAUSE OF ACTION.

(a) CAUSE OF ACTION.—Subject to subsection (c), an aggrieved individual may bring an action in a court of competent jurisdiction, asserting a violation of this Act. Aggrieved individuals may be awarded all appropriate relief, including equitable relief, compensatory damages, and costs of the action.

(b) RULE OF CONSTRUCTION.—This section shall not be construed to preclude an aggrieved individual from obtaining remedies under any other provision of law or to require such individual to exhaust any administrative complaint process or notice of claim requirement before seeking redress under this section.

(c) STATUTE OF LIMITATIONS.—For actions brought pursuant to this section, the statute of limitations period shall be determined in accordance with section 1658(a) of title 28, United States Code. The tolling of any such limitations period shall be determined in accordance with the law governing actions under section 1979 of the Revised Statutes (42 U.S.C. 1983) in the State in which the action is brought.

SEC. 7. STATE IMMUNITY.

(a) STATE IMMUNITY.—A State shall not be immune under the 11th Amendment to the Constitution from suit in Federal court for a violation of this Act.

(b) WAIVER.—A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th Amendment or otherwise, to a suit brought by an aggrieved individual for a violation of section 4.

(c) REMEDIES.—In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a State.

SEC. 8. ATTORNEY'S FEES.

Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting ''the Student Non-Discrimination Act of 2011,'' after ''Religious Land Use and Institutionalized Persons Act of 2000,''.

SEC. 9. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE NONDISCRIMINATION LAWS.—Nothing in this Act shall be construed to preempt, invalidate, or limit rights, remedies, procedures, or legal standards available to victims of discrimination or retaliation, under any other Federal law or law of a State or political subdivision of a State, including title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), or section 1979 of the Revised Statutes (42 U.S.C. 1983). The obligations imposed by this Act are in addition to those imposed by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and section 1979 of the Revised Statutes (42 U.S.C. 1983).

(b) FREE SPEECH AND EXPRESSION LAWS AND RELIGIOUS STUDENT GROUPS.—Nothing in this Act shall be construed to alter legal standards regarding, or affect the rights available to individuals or groups under, other Federal laws that establish protections for freedom of speech and expression, such as legal standards and rights available to religious and other student groups under the First Amendment and the Equal Access Act (20 U.S.C. 4071 et seq.).

SEC. 10. SEVERABILITY.

If any provision of this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provision to any other person or circumstance shall not be impacted.

SEC. 11. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of enactment of this Act and shall not apply to conduct occurring before the effective date of this Act.

By Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. BINGAMAN, Mrs. BOXER, Mr. BROWN of Ohio, Ms. CANTWELL, Mr. CARDIN, Mr. CASEY, Mr. DURBIN, Mr. FRANKEN, Mr. HARKIN, Mr. JOHNSON of South Dakota, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. SANDERS, Mr. UDALL of New Mexico, Mr. WHITEHOUSE, and Mr. WYDEN):

S. 558. A bill to limit the use of cluster munitions; to the Committee on Foreign Relations.

Mrs. FEINSTEIN. Mr. President, I rise today with my friend and colleague from Vermont, Senator LEAHY, and 20 co-sponsors to introduce the Cluster Munitions Civilian Protection Act of 2011.

Cluster munitions are large bombs, rockets, or artillery shells that contain up to hundreds of small submunitions, or individual ''bomblets.''

They are intended for attacking enemy troop formations and armor covering over a half mile radius.

But, in reality, they pose a deadly threat to innocent civilians. Before I discuss our legislation, I would like to share a few stories that show what these weapons can do.

Several months after the end of the Iraq war, Ahmed, 12 years old from Kebala, Iraq, was walking with his 9-year-old brother and picked up what he thought was just a shiny object, but was, in fact, a cluster bomb.

It exploded and Ahmed lost his right hand and three fingers off his left hand.

He also lost an eye and suffered shrapnel wounds to his torso and head.

A young shepherd, Akim, 13 years old, from Al-Radwaniya, Iraq, was playing on his parents' farm when it was hit by a cluster bomb attack.

He suffered burns to his lower limbs and multiple fractures to his right leg.

His wounds became infected and he developed pressure ulcers.

In 2003, 30 years after the Vietnam war, Dan, 9 years old from Phalanexay, Laos, was injured when he picked up and played with a cluster bomb. It exploded.

He suffered massive abdominal trauma, multiple shrapnel wounds, and a broken arm and leg.

Waleed Thamer, 10 years old, is from Iraq. In 2003, he was wounded by a cluster bomb on his way to the local market.

He lost his right hand and suffered shrapnel wounds to his eyes, neck, torso, and thighs.

These stories are deeply distressing. But they show us why our legislation is necessary.

Our legislation places commonsense restrictions on the use of cluster bombs. It prevents any funds from being spent to use cluster munitions that have a failure rate of more than 1 percent; and unless the rules of engagement specify the cluster munitions will only be used against clearly defined military targets; and will not be used where civilians are known to be

present or in areas normally inhabited by civilians.

Finally, our legislation includes a national security waiver that allows the President to waive the prohibition on the use of cluster bombs with a failure rate of more than 1 percent, if he determines it is vital to protect the security of the United States to do so.

If the President issues the waiver, he must issue a report to Congress within 30 days on the failure rate of the cluster bombs used and the steps taken to protect innocent civilians.

If our bill is enacted, it will have an immediate impact.

Out of the 728.5 million cluster submunitions in the U.S. arsenal, only 30,900 have self-destruct devices that would ensure a less than 1 percent dud rate.

Those submunitions account for only 0.00004 percent of the U.S. total.

So, the technology exists for the U.S. to meet the 1 percent standard but our arsenal consists overwhelmingly of cluster bombs with high failure rates.

Simply put, our bill will help save lives.

As the above stories demonstrate, cluster bombs pose a real threat to the safety of civilians when used in populated areas because they leave hundreds of unexploded bombs over a very large area and they are often inaccurate.

Indeed, the human toll of these weapons has been terrible:

In Laos, approximately 11,000 people, 30 percent of them children, have been killed or injured by U.S. cluster munitions since the Vietnam war ended.

In Afghanistan, between October 2001 and November 2002, 127 civilians lost their lives due to cluster munitions, 70 percent of them under the age of 18.

An estimated 1,220 Kuwaitis and 400 Iraqi civilians have been killed by cluster munitions since 1991.

In the 2006 war in Lebanon, Israeli cluster munitions, many of them manufactured in the U.S., injured and killed 343 civilians.

During the 2003 invasion of Baghdad, the last time the U.S. used cluster munitions, these weapons killed more civilians than any other type of U.S. weapon.

The U.S. 3rd Infantry Division described cluster munitions as ''battlefield losers'' in Iraq, because they were often forced to advance through areas contaminated with unexploded duds.

During the 1991 Gulf War, U.S. cluster munitions caused more U.S. troop casualties than any single Iraqi weapon system, killing 22 U.S. servicemen.

Yet we have seen significant progress in the effort to protect innocent civilians from these deadly weapons since we first introduced this legislation in the 110th Congress.

In December 2008, 95 countries came together to sign the Oslo Convention on Cluster Munitions which would prohibit the production, use, and export of cluster bombs and requires signatories to eliminate their arsenals within 8 years.

This group includes key NATO allies such as Canada, the United Kingdom, France, and Germany, who are fighting alongside our troops in Afghanistan.

It includes 33 countries that have produced and used cluster munitions.

To date, 108 countries have signed the convention and 48 have ratified it.

It formally came into force on August 1, 2010.

In 2007, Congress passed and President Bush signed into law a provision from our legislation contained in the fiscal year 2008 Consolidated Appropriations Act prohibiting the sale and transfer of cluster bombs with a failure rate of more than 1 percent.

Congress extended this ban as a part of the Omnibus Appropriations Act for fiscal year 2009 and the Consolidated Appropriations Act of 2010.

These actions will help save lives. But much more work remains to be done and significant obstacles remain.

For one, the United States chose not to participate in the Oslo process or sign the treaty.

The Pentagon continues to believe that cluster munitions are ''legitimate weapons with clear military utility in combat.''

It would prefer that the United States work within the Geneva-based Convention on Certain Conventional Weapons, CCW, to negotiate limits on the use of cluster munitions.

Yet these efforts have been going on since 2001 and it was the inability of the CCW to come to any meaningful agreement which prompted other countries, led by Norway, to pursue an alternative treaty through the Oslo process.

A lack of U.S. leadership in this area has given cover to other major cluster munitions producing nations—China, Russia, India, Pakistan, Israel, and Egypt—who have refused to sign the Oslo Convention as well.

Recognizing the United States could not remain silent in the face of international efforts to restrict the use of cluster bombs, Secretary of Defense Robert Gates issued a new policy on cluster munitions in June 2008 stating that after 2018, the use, sale and transfer of cluster munitions with a failure rate of more than 1 percent would be prohibited.

The policy is a step in the right direction, but under the terms of this new policy, the Pentagon will still have the authority to use cluster bombs with high failure rates for the next 10 years.

That is unacceptable and runs counter to our values. The administration should take another look at this policy.

In fact, on September 29, 2009, Senator LEAHY and I were joined by 14 of our colleagues in sending a letter to President Obama urging him to conduct a thorough review of U.S. policy on cluster munitions.

On April 14, 2010, we received a response from then National Security Advisor Jim Jones stating that the administration will undertake this review following the policy review on U.S. landmines policy.

The administration should complete this review without delay.

Let us not forget that the United States maintains an arsenal of an estimated 5.5 million cluster munitions containing 728 million submunitions which have an estimated failure rate of between 5 and 15 percent.

What does that say about us, that we are still prepared to use, sell and transfer these weapons with well-known failure rates?

The fact is, cluster munition technologies already exist, that meet the 1 percent standard. Why do we need to wait 10 years?

This delay is especially troubling given that in 2001, former Secretary of Defense William Cohen issued his own policy on cluster munitions stating that, beginning in fiscal year 2005, all new cluster munitions must have a failure rate of less than 1 percent.

Unfortunately, the Pentagon was unable to meet this deadline and Secretary Gates' new policy essentially postpones any meaningful action for another 10 years.

That means if we do nothing, by 2018 close to 20 years will have passed since the Pentagon first recognized the threat these deadly weapons pose to innocent civilians.

We can do better.

Our legislation simply moves up the Gates policy by 7 years.

For those of my colleagues who are concerned that it may be too soon to enact a ban on the use of cluster bombs with failure rates of more than 1 percent, I point out again that our bill allows the President to waive this restriction if he determines it is vital to protect the security of the United States to do so.

I would also remind my colleagues that the United States has not used cluster bombs in Iraq since 2003 and has observed a moratorium on their use in Afghanistan since 2002.

We introduce this legislation to make this moratorium permanent for the entire U.S. arsenal of cluster munitions.

We introduce this legislation for children like Hassan Hammade.

A 13-year-old Lebanese boy, Hassan lost four fingers and sustained injuries to his stomach and shoulder after he picked up an unexploded cluster bomb in front of an orange tree.

He said:

> I started playing with it and it blew up. I didn't know it was a cluster bomb—it just looked like a burned out piece of metal.
>
> All the children are too scared to go out now, we just play on the main roads or in our homes.

I urge my colleagues to support this legislation. We should do whatever we can to protect more innocent children and other civilians from these dangerous weapons.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 558

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 ''Cluster Munitions Civilian Protection Act of 2011''.

SEC. 2. LIMITATION ON THE USE OF CLUSTER MUNITIONS.

No funds appropriated or otherwise available to any Federal department or agency may be obligated or expended to use any cluster munitions unless—

(1) the submunitions of the cluster munitions, after arming, do not result in more than 1 percent unexploded ordnance across the range of intended operational environments; and

(2) the policy applicable to the use of such cluster munitions specifies that the cluster munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present or in areas normally inhabited by civilians.

SEC. 3. PRESIDENTIAL WAIVER.

The President may waive the requirement under section 2(1) if, prior to the use of cluster munitions, the President—

(1) certifies that it is vital to protect the security of the United States; and

(2) not later than 30 days after making such certification, submits to the appropriate congressional committees a report, in classified form if necessary, describing in detail—

(A) the steps that will be taken to protect civilians; and

(B) the failure rate of the cluster munitions that will be used and whether such munitions are fitted with self-destruct or self-deactivation devices.

SEC. 4. CLEANUP PLAN.

Not later than 90 days after any cluster munitions are used by a Federal department or agency, the President shall submit to the appropriate congressional committees a plan, prepared by such Federal department or agency, for cleaning up any such cluster munitions and submunitions which fail to explode and continue to pose a hazard to civilians.

SEC. 5. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

In this Act, the term ''appropriate congressional committees'' means the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

By Mr. DURBIN (for himself, Mr. BROWN of Ohio, and Mr. AKAKA):

S. 560. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare program; to the Committee on Finance.

Mr. DURBIN. Mr. President, this Congress, members from both sides of the aisle recognize the need to reduce the national deficit. Today, I am introducing the Medicare Prescription Drugs Savings and Choice Act of 2011, a bill that would save taxpayer dollars by giving Medicare beneficiaries the choice to participate in a Medicare Part D prescription drug plan run by Medicare, not private insurance companies.

In 2003, Congress enacted the Medicare Modernization Act, which added a long overdue prescription drug benefit to Medicare. Senior citizens and people with disabilities were relieved to finally have coverage for this important aspect of their healthcare needs.

The way the Part D program was structured under the original law, it included a coverage gap known as the ''donut hole.'' Once an initial coverage limit was reached, beneficiaries had to absorb 100 percent of their drug costs until catastrophic coverage kicked in. That meant that approximately 3.4 million seniors nationwide with the heaviest reliance on prescription drugs faced the prospect of paying up to $4,000 out of pocket before they qualified for further assistance from Medicare.

When Congress passed the Affordable Care Act last year, we made significant improvements to the Medicare Part D program. Seniors who hit the ''donut hole'' in 2010 received a one-time $250 check. This helped 109,421 seniors in Illinois pay for their prescriptions during the coverage gap. In addition, this year Medicare beneficiaries will receive a 50 percent discount on brand name drugs in the donut hole, and the donut hole will be fully closed by 2020. This means that Illinois seniors will save $1.2 billion in out of pocket costs over the next decade.

The bill I am introducing today would make yet another improvement to the Medicare prescription drug benefit. The Part D program is not structured like the rest of Medicare. For all other Medicare benefits, seniors can choose whether to receive benefits directly through Medicare or through a private insurance plan. The overwhelming majority choose the Medicare-run option for their hospital and physician coverage.

No such choice is available for prescription drugs. Medicare beneficiaries must enroll in a private insurance plan to obtain drug coverage.

In many regions, dozens of plan choices are available and each plan has its own premium, cost-sharing requirements, list of covered drugs, and pharmacy network. After you have identified the right drug plan, you have to go through the whole process again at the end of the year because your plan may have changed the drugs it covers or added new restrictions on how to access covered drugs. Anyone who has visited a senior center or spoken with an elderly relative knows that the complexity of the drug benefit has created confusion.

Adding to the frustration with the program so far is accumulating evidence that private drug plans have not been effective negotiators, which means seniors and taxpayers end up paying more than they should.

We know that drug prices are higher in private Medicare drug plans than drug prices available through the Veterans Administration, Medicaid, and other countries like Canada.

The Veterans Administration has authority to directly negotiate with drug companies, and as a result it has cut drug prices by as much as 50 percent. A study published in 2008 found that if Medicare negotiated drug prices on behalf of seniors, $21.5 billion could be saved annually.

The Medicare Prescription Drug Savings and Choice Act of 2011 would provide a simple and stable way to obtain drug coverage, since the plan Medicare-operated prescription drug plan would be available nationwide every year, and would charge everyone the same premium.

It would also save money because the Secretary of Health and Human Services would have the tools to design a formulary and negotiate prices with drug companies. The best medical evidence would determine which drugs are covered in the formulary, and it would be used to promote safety, appropriate use of drugs, and value.

The bill would establish an appeals process that is efficient, imposes minimal administrative burdens, and ensures timely procurement of non-formulary drugs or non-preferred drugs when medically necessary.

The Secretary would also develop a system for paying pharmacies that would include the prompt payment of claims.

Seniors want the ability to choose a Medicare-administered drug plan. Let us give them this option—just as they have this choice with every other benefit covered by Medicare.

A Medicare administered drug plan would create a ''win-win'' situation that could save billions of taxpayer dollars and provide a high-quality affordable option to seniors.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 560

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 ''Medicare Prescription Drug Savings and Choice Act of 2011''.

SEC. 2. ESTABLISHMENT OF MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION.

(a) IN GENERAL.—Subpart 2 of part D of title XVIII of the Social Security Act is amended by inserting after section 1860D–11 (42 U.S.C. 1395w–111) the following new section:

''MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION

''SEC. 1860D–11A. (a) IN GENERAL.—Notwithstanding any other provision of this part, for each year (beginning with 2012), in addition to any plans offered under section 1860D–11, the Secretary shall offer one or more Medicare operated prescription drug plans (as defined in subsection (c)) with a service area that consists of the entire United States and shall enter into negotiations in accordance with subsection (b) with pharmaceutical manufacturers to reduce the

purchase cost of covered part D drugs for eligible part D individuals who enroll in such a plan.

''(b) NEGOTIATIONS.—Notwithstanding section 1860D–11(i), for purposes of offering a Medicare operated prescription drug plan under this section, the Secretary shall negotiate with pharmaceutical manufacturers with respect to the purchase price of covered part D drugs in a Medicare operated prescription drug plan and shall encourage the use of more affordable therapeutic equivalents to the extent such practices do not override medical necessity as determined by the prescribing physician. To the extent practicable and consistent with the previous sentence, the Secretary shall implement strategies similar to those used by other Federal purchasers of prescription drugs, and other strategies, including the use of a formulary and formulary incentives in subsection (e), to reduce the purchase cost of covered part D drugs.

''(c) MEDICARE OPERATED PRESCRIPTION DRUG PLAN DEFINED.—For purposes of this part, the term 'Medicare operated prescription drug plan' means a prescription drug plan that offers qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A). Such a plan may offer supplemental prescription drug coverage in the same manner as other qualified prescription drug coverage offered by other prescription drug plans.

''(d) MONTHLY BENEFICIARY PREMIUM.—

''(1) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The monthly beneficiary premium for qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A) to be charged under a Medicare operated prescription drug plan shall be uniform nationally. Such premium for months in 2012 and each succeeding year shall be based on the average monthly per capita actuarial cost of offering the Medicare operated prescription drug plan for the year involved, including administrative expenses.

''(2) SUPPLEMENTAL PRESCRIPTION DRUG COVERAGE.—Insofar as a Medicare operated prescription drug plan offers supplemental prescription drug coverage, the Secretary may adjust the amount of the premium charged under paragraph (1).

''(e) USE OF A FORMULARY AND FORMULARY INCENTIVES.—

''(1) IN GENERAL.—With respect to the operation of a Medicare operated prescription drug plan, the Secretary shall establish and apply a formulary (and may include formulary incentives described in paragraph (2)(C)(ii)) in accordance with this subsection in order to—

''(A) increase patient safety;

''(B) increase appropriate use and reduce inappropriate use of drugs; and

''(C) reward value.

''(2) DEVELOPMENT OF INITIAL FORMULARY.—

''(A) IN GENERAL.—In selecting covered part D drugs for inclusion in a formulary, the Secretary shall consider clinical benefit and price.

''(B) ROLE OF AHRQ.—The Director of the Agency for Healthcare Research and Quality shall be responsible for assessing the clinical benefit of covered part D drugs and making recommendations to the Secretary regarding which drugs should be included in the formulary. In conducting such assessments and making such recommendations, the Director shall—

''(i) consider safety concerns including those identified by the Federal Food and Drug Administration;

''(ii) use available data and evaluations, with priority given to randomized controlled trials, to examine clinical effectiveness, comparative effectiveness, safety, and enhanced compliance with a drug regimen;

''(iii) use the same classes of drugs developed by the United States Pharmacopeia for this part;

''(iv) consider evaluations made by—

''(I) the Director under section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003;

''(II) other Federal entities, such as the Secretary of Veterans Affairs; and

''(III) other private and public entities, such as the Drug Effectiveness Review Project and Medicaid programs; and

''(v) recommend to the Secretary—

''(I) those drugs in a class that provide a greater clinical benefit, including fewer safety concerns or less risk of side-effects, than another drug in the same class that should be included in the formulary;

''(II) those drugs in a class that provide less clinical benefit, including greater safety concerns or a greater risk of side-effects, than another drug in the same class that should be excluded from the formulary; and

''(III) drugs in a class with same or similar clinical benefit for which it would be appropriate for the Secretary to competitively bid (or negotiate) for placement on the formulary.

''(C) CONSIDERATION OF AHRQ RECOMMENDATIONS.—

''(i) IN GENERAL.—The Secretary, after taking into consideration the recommendations under subparagraph (B)(v), shall establish a formulary, and formulary incentives, to encourage use of covered part D drugs that—

''(I) have a lower cost and provide a greater clinical benefit than other drugs;

''(II) have a lower cost than other drugs with same or similar clinical benefit; and

''(III) drugs that have the same cost but provide greater clinical benefit than other drugs.

''(ii) FORMULARY INCENTIVES.—The formulary incentives under clause (i) may be in the form of one or more of the following:

''(I) Tiered copayments.

''(II) Reference pricing.

''(III) Prior authorization.

''(IV) Step therapy.

''(V) Medication therapy management.

''(VI) Generic drug substitution.

''(iii) FLEXIBILITY.—In applying such formulary incentives the Secretary may decide not to impose any cost-sharing for a covered part D drug for which—

''(I) the elimination of cost sharing would be expected to increase compliance with a drug regimen; and

''(II) compliance would be expected to produce savings under part A or B or both.

''(3) LIMITATIONS ON FORMULARY.—In any formulary established under this subsection, the formulary may not be changed during a year, except—

''(A) to add a generic version of a covered part D drug that entered the market;

''(B) to remove such a drug for which a safety problem is found; and

''(C) to add a drug that the Secretary identifies as a drug which treats a condition for which there has not previously been a treatment option or for which a clear and significant benefit has been demonstrated over other covered part D drugs.

''(4) ADDING DRUGS TO THE INITIAL FORMULARY.—

''(A) USE OF ADVISORY COMMITTEE.—The Secretary shall establish and appoint an advisory committee (in this paragraph referred to as the 'advisory committee')—

''(i) to review petitions from drug manufacturers, health care provider organizations, patient groups, and other entities for inclusion of a drug in, or other changes to, such formulary; and

''(ii) to recommend any changes to the formulary established under this subsection.

''(B) COMPOSITION.—The advisory committee shall be composed of 9 members and shall include representatives of physicians, pharmacists, and consumers and others with expertise in evaluating prescription drugs. The Secretary shall select members based on their knowledge of pharmaceuticals and the Medicare population. Members shall be deemed to be special Government employees for purposes of applying the conflict of interest provisions under section 208 of title 18, United States Code, and no waiver of such provisions for such a member shall be permitted.

''(C) CONSULTATION.—The advisory committee shall consult, as necessary, with physicians who are specialists in treating the disease for which a drug is being considered.

''(D) REQUEST FOR STUDIES.—The advisory committee may request the Agency for Healthcare Research and Quality or an academic or research institution to study and make a report on a petition described in subparagraph (A)(ii) in order to assess—

''(i) clinical effectiveness;

''(ii) comparative effectiveness;

''(iii) safety; and

''(iv) enhanced compliance with a drug regimen.

''(E) RECOMMENDATIONS.—The advisory committee shall make recommendations to the Secretary regarding—

''(i) whether a covered part D drug is found to provide a greater clinical benefit, including fewer safety concerns or less risk of side-effects, than another drug in the same class that is currently included in the formulary and should be included in the formulary;

''(ii) whether a covered part D drug is found to provide less clinical benefit, including greater safety concerns or a greater risk of side-effects, than another drug in the same class that is currently included in the formulary and should not be included in the formulary; and

''(iii) whether a covered part D drug has the same or similar clinical benefit to a drug in the same class that is currently included in the formulary and whether the drug should be included in the formulary.

''(F) LIMITATIONS ON REVIEW OF MANUFACTURER PETITIONS.—The advisory committee shall not review a petition of a drug manufacturer under subparagraph (A)(ii) with respect to a covered part D drug unless the petition is accompanied by the following:

''(i) Raw data from clinical trials on the safety and effectiveness of the drug.

''(ii) Any data from clinical trials conducted using active controls on the drug or drugs that are the current standard of care.

''(iii) Any available data on comparative effectiveness of the drug.

''(iv) Any other information the Secretary requires for the advisory committee to complete its review.

''(G) RESPONSE TO RECOMMENDATIONS.—The Secretary shall review the recommendations of the advisory committee and if the Secretary accepts such recommendations the Secretary shall modify the formulary established under this subsection accordingly. Nothing in this section shall preclude the Secretary from adding to the formulary a drug for which the Director of the Agency for Healthcare Research and Quality or the advisory committee has not made a recommendation.

''(H) NOTICE OF CHANGES.—The Secretary shall provide timely notice to beneficiaries and health professionals about changes to the formulary or formulary incentives.

''(f) INFORMING BENEFICIARIES.—The Secretary shall take steps to inform beneficiaries about the availability of a Medicare operated drug plan or plans including providing information in the annual handbook

distributed to all beneficiaries and adding information to the official public Medicare website related to prescription drug coverage available through this part.

''(g) APPLICATION OF ALL OTHER REQUIREMENTS FOR PRESCRIPTION DRUG PLANS.—Except as specifically provided in this section, any Medicare operated drug plan shall meet the same requirements as apply to any other prescription drug plan, including the requirements of section 1860D–4(b)(1) relating to assuring pharmacy access.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1860D–3(a) of the Social Security Act (42 U.S.C. 1395w–103(a)) is amended by adding at the end the following new paragraph:

''(4) AVAILABILITY OF THE MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—A Medicare operated prescription drug plan (as defined in section 1860D–11A(c)) shall be offered nationally in accordance with section 1860D–11A.''.

(2)(A) Section 1860D–3 of the Social Security Act (42 U.S.C. 1395w–103) is amended by adding at the end the following new subsection:

''(c) PROVISIONS ONLY APPLICABLE IN 2006 THROUGH 2011.—The provisions of this section shall only apply with respect to 2006 through 2011.''.

(B) Section 1860D–11(g) of such Act (42 U.S.C. 1395w–111(g)) is amended by adding at the end the following new paragraph:

''(8) NO AUTHORITY FOR FALLBACK PLANS AFTER 2011.—A fallback prescription drug plan shall not be available after December 31, 2011.''.

(3) Section 1860D–13(c)(3) of the Social Security Act (42 U.S.C. 1395w–113(c)(3)) is amended—

(A) in the heading, by inserting ''AND MEDICARE OPERATED PRESCRIPTION DRUG PLANS'' after ''FALLBACK PLANS''; and

(B) by inserting ''or a Medicare operated prescription drug plan'' after ''a fallback prescription drug plan''.

(4) Section 1860D–16(b)(1) of the Social Security Act (42 U.S.C. 1395w–116(b)(1)) is amended—

(A) in subparagraph (C), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(E) payments for expenses incurred with respect to the operation of Medicare operated prescription drug plans under section 1860D–11A.''.

(5) Section 1860D–41(a) of the Social Security Act (42 U.S.C. 1395w–151(a)) is amended by adding at the end the following new paragraph:

''(19) MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—The term 'Medicare operated prescription drug plan' has the meaning given such term in section 1860D–11A(c).''.

SEC. 3. IMPROVED APPEALS PROCESS UNDER THE MEDICARE OPERATED PRESCRIPTION DRUG PLAN.

Section 1860D–4(h) of the Social Security Act (42 U.S.C. 1305w–104(h)) is amended by adding at the end the following new paragraph:

''(4) APPEALS PROCESS FOR MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—

''(A) IN GENERAL.—The Secretary shall develop a well-defined process for appeals for denials of benefits under this part under the Medicare operated prescription drug plan. Such process shall be efficient, impose minimal administrative burdens, and ensure the timely procurement of non-formulary drugs or exemption from formulary incentives when medically necessary. Medical necessity shall be based on professional medical judgment, the medical condition of the beneficiary, and other medical evidence. Such appeals process shall include—

''(i) an initial review and determination made by the Secretary; and

''(ii) for appeals denied during the initial review and determination, the option of an external review and determination by an independent entity selected by the Secretary.

''(B) CONSULTATION IN DEVELOPMENT OF PROCESS.—In developing the appeals process under subparagraph (A), the Secretary shall consult with consumer and patient groups, as well as other key stakeholders to ensure the goals described in subparagraph (A) are achieved.''.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 564. A bill to designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to reintroduce legislation that would transfer administrative jurisdiction of the Valles Caldera National Preserve from the Valles Caldera Trust to the National Park Service. I am pleased that my colleague from New Mexico, TOM UDALL, is again a cosponsor of this bill.

For those not familiar with this area, the Valles Caldera in Northern New Mexico is one of only three supervolcanoes in the United States, the other two being Yellowstone, WY, and Long Valley, CA. Spanning more than 100,000 acres, the caldera contains lush and expansive grassland valleys, ponderosa pines in the foothills and mixed conifer forests in the higher elevations of the volcanic domes and peaks. Numerous cultural and archaeological sites are scattered throughout the landscape that provides quality habitat to elk, trout, golden and bald eagles, and myriad other species. In 1975, the Valles Caldera received formal recognition as an outstanding and nationally significant geologic resource when it was designated a National Natural Landmark.

More recently in 2000, the Valles Caldera Preservation Act authorized the Federal Government to acquire the property and established the Valles Caldera Trust—an independent government corporation led by a board of trustees appointed by the President whose mission is to provide for public access and protection of the Preserve's natural and cultural resources. The Trust is also directed to manage the Preserve in a manner that would achieve financial self-sustainability after fifteen years.

While the individual board members have done their best to fulfill the original legislative directives, time has shown in my opinion that this management framework is not the best suited for the long-term management of the Preserve. These issues have been laid out at length in two GAO reports, during the hearing we held on this legislation in the 111th Congress, and in previous statements I have made on the subject.

In weighing the various alternatives, the conclusion was reached that management by the National Park Service—an agency with a mission of protecting natural, historic, and cultural resources while also providing for public enjoyment of those resources—is more appropriate for the long-term future of the Valles Caldera. In my view, it would also best serve the public's desire for increased public access, balanced with the need to protect and interpret the Preserve's unique cultural and natural resources.

Senator UDALL and I first introduced this legislation during the 111th Congress, during which time the bill received a hearing in the Committee on Energy and Natural Resources and was reported out favorably by that Committee. The reported legislation, which is what we are introducing today, incorporated the many comments we received during the hearing process. This includes improvements to the provisions on hunting and fishing and cattle grazing as well as changes made based on recommendations by tribal governments. Other stakeholder comments, including those from the friends group, Los Amigos de Valles Caldera, led to modifications that will ensure the ecological restoration of the Preserve remains a priority under Park Service management. I also appreciated the valuable comments we received from the staff at the Valles Caldera Trust who remain steadfast in their commitment to the highest management standards at the Preserve.

Beyond these changes, however, the original framework and intent of the legislation remains the same. The existing character of the Preserve would be maintained and protections for tribal cultural and religious sites would be strengthened. The Park Service would manage the Preserve to protect and preserve its natural and cultural resources, while increasing public access and continuing to permit hunting and fishing and grazing. The National Park Service would also establish a science and education program similar to the highly successful program created by the Trust.

While the full Senate was unable to take action on this bill during the last Congress, I remain hopeful that we will find an opportunity during this one to bring it before the Senate for consideration. Public support in my State remains very high for the Park Service to manage this unique resource, and it is my hope that the enactment of this legislation will allow more Americans as well as future generations to enjoy this special place.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 564

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 ''Valles Caldera National Preserve Management Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE EMPLOYEE.—The term ''eligible employee'' means a person who was a full-time or part-time employee of the Trust during the 180-day period immediately preceding the date of enactment of this Act.

(2) FUND.—The term ''Fund'' means the Valles Caldera Fund established by section 106(h)(2) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(h)(2)).

(3) PRESERVE.—The term ''Preserve'' means the Valles Caldera National Preserve in the State.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of New Mexico.

(6) TRUST.—The term ''Trust'' means the Valles Caldera Trust established by section 106(a) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(a)).

SEC. 3. VALLES CALDERA NATIONAL PRESERVE.

(a) DESIGNATION AS UNIT OF THE NATIONAL PARK SYSTEM.—To protect, preserve, and restore the fish, wildlife, watershed, natural, scientific, scenic, geologic, historic, cultural, archaeological, and recreational values of the area, the Valles Caldera National Preserve is designated as a unit of the National Park System.

(b) MANAGEMENT.—

(1) APPLICABLE LAW.—The Secretary shall administer the Preserve in accordance with—

(A) this Act; and

(B) the laws generally applicable to units of the National Park System, including—

(i) the National Park Service Organic Act (16 U.S.C. 1 et seq.); and

(ii) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(2) MANAGEMENT COORDINATION.—The Secretary may coordinate the management and operations of the Preserve with the Bandelier National Monument.

(3) MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 3 fiscal years after the date on which funds are made available to implement this subsection, the Secretary shall prepare a management plan for the Preserve.

(B) APPLICABLE LAW.—The management plan shall be prepared in accordance with—

(i) section 12(b) of Public Law 91–383 (commonly known as the ''National Park Service General Authorities Act'') (16 U.S.C. 1a–7(b)); and

(ii) any other applicable laws.

(C) CONSULTATION.—The management plan shall be prepared in consultation with—

(i) the Secretary of Agriculture;

(ii) State and local governments;

(iii) Indian tribes and pueblos, including the Pueblos of Jemez, Santa Clara, and San Ildefonso; and

(iv) the public.

(c) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire land and interests in land within the boundaries of the Preserve by—

(A) purchase with donated or appropriated funds;

(B) donation; or

(C) transfer from another Federal agency.

(2) ADMINISTRATION OF ACQUIRED LAND.—On acquisition of any land or interests in land under paragraph (1), the acquired land or interests in land shall be administered as part of the Preserve.

(d) SCIENCE AND EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary shall—

(A) until the date on which a management plan is completed in accordance with subsection (b)(3), carry out the science and education program for the Preserve established by the Trust; and

(B) beginning on the date on which a management plan is completed in accordance with subsection (b)(3), establish a science and education program for the Preserve that—

(i) allows for research and interpretation of the natural, historic, cultural, geologic and other scientific features of the Preserve;

(ii) provides for improved methods of ecological restoration and science-based adaptive management of the Preserve; and

(iii) promotes outdoor educational experiences in the Preserve.

(2) SCIENCE AND EDUCATION CENTER.—As part of the program established under paragraph (1)(B), the Secretary may establish a science and education center outside the boundaries of the Preserve.

(e) GRAZING.—The Secretary may allow the grazing of livestock within the Preserve to continue—

(1) consistent with this Act; and

(2) to the extent the use furthers scientific research or interpretation of the ranching history of the Preserve.

(f) FISH AND WILDLIFE.—Nothing in this Act affects the responsibilities of the State with respect to fish and wildlife in the State, except that the Secretary, in consultation with the New Mexico Department of Game and Fish—

(1) shall permit hunting and fishing on land and water within the Preserve in accordance with applicable Federal and State laws; and

(2) may designate zones in which, and establish periods during which, no hunting or fishing shall be permitted for reasons of public safety, administration, the protection of wildlife and wildlife habitats, or public use and enjoyment.

(g) ECOLOGICAL RESTORATION.—

(1) IN GENERAL.—The Secretary shall undertake activities to improve the health of forest, grassland, and riparian areas within the Preserve, including any activities carried out in accordance with title IV of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7301 et seq.).

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with adjacent pueblos to coordinate activities carried out under paragraph (1) on the Preserve and adjacent pueblo land.

(h) WITHDRAWAL.—Subject to valid existing rights, all land and interests in land within the boundaries of the Preserve are withdrawn from—

(1) entry, disposal, or appropriation under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing laws, geothermal leasing laws, and mineral materials laws.

(i) VOLCANIC DOMES AND OTHER PEAKS.—

(1) IN GENERAL.—Except as provided in paragraph (3), for the purposes of preserving the natural, cultural, religious, archaeological, and historic resources of the volcanic domes and other peaks in the Preserve described in paragraph (2) within the area of the domes and peaks above 9,600 feet in elevation or 250 feet below the top of the dome, whichever is lower—

(A) no roads or buildings shall be constructed; and

(B) no motorized access shall be allowed.

(2) DESCRIPTION OF VOLCANIC DOMES.—The volcanic domes and other peaks referred to in paragraph (1) are—

(A) Redondo Peak;

(B) Redondito;

(C) South Mountain;

(D) San Antonio Mountain;

(E) Cerro Seco;

(F) Cerro San Luis;

(G) Cerros Santa Rosa;

(H) Cerros del Abrigo;

(I) Cerro del Medio;

(J) Rabbit Mountain;

(K) Cerro Grande;

(L) Cerro Toledo;

(M) Indian Point;

(N) Sierra de los Valles; and

(O) Cerros de los Posos.

(3) EXCEPTION.—Paragraph (1) shall not apply in cases in which construction or motorized access is necessary for administrative purposes (including ecological restoration activities or measures required in emergencies to protect the health and safety of persons in the area).

(j) TRADITIONAL CULTURAL AND RELIGIOUS SITES.—

(1) IN GENERAL.—The Secretary, in consultation with Indian tribes and pueblos, shall ensure the protection of traditional cultural and religious sites in the Preserve.

(2) ACCESS.—The Secretary, in accordance with Public Law 95–341 (commonly known as the ''American Indian Religious Freedom Act'') (42 U.S.C. 1996)—

(A) shall provide access to the sites described in paragraph (1) by members of Indian tribes or pueblos for traditional cultural and customary uses; and

(B) may, on request of an Indian tribe or pueblo, temporarily close to general public use 1 or more specific areas of the Preserve to protect traditional cultural and customary uses in the area by members of the Indian tribe or pueblo.

(3) PROHIBITION ON MOTORIZED ACCESS.—The Secretary shall maintain prohibitions on the use of motorized or mechanized travel on Preserve land located adjacent to the Santa Clara Indian Reservation, to the extent the prohibition was in effect on the date of enactment of this Act.

(k) CALDERA RIM TRAIL.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, affected Indian tribes and pueblos, and the public, shall study the feasibility of establishing a hiking trail along the rim of the Valles Caldera on—

(A) land within the Preserve; and

(B) National Forest System land that is adjacent to the Preserve.

(2) AGREEMENTS.—On the request of an affected Indian tribe or pueblo, the Secretary and the Secretary of Agriculture shall seek to enter into an agreement with the Indian tribe or pueblo with respect to the Caldera Rim Trail that provides for the protection of—

(A) cultural and religious sites in the vicinity of the trail; and

(B) the privacy of adjacent pueblo land.

(l) VALID EXISTING RIGHTS.—Nothing in this Act affects valid existing rights.

SEC. 4. TRANSFER OF ADMINISTRATIVE JURISDICTION.

(a) IN GENERAL.—Administrative jurisdiction over the Preserve is transferred from the Secretary of Agriculture and the Trust to the Secretary, to be administered as a unit of the National Park System, in accordance with section 3.

(b) EXCLUSION FROM SANTA FE NATIONAL FOREST.—The boundaries of the Santa Fe National Forest are modified to exclude the Preserve.

(c) INTERIM MANAGEMENT.—

(1) MEMORANDUM OF AGREEMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Trust shall enter into a memorandum of agreement to facilitate the orderly transfer to the Secretary of the administration of the Preserve.

(2) EXISTING MANAGEMENT PLANS.—Notwithstanding the repeal made by section 5(a), until the date on which the Secretary

completes a management plan for the Preserve in accordance with section 3(b)(3), the Secretary may administer the Preserve in accordance with any management activities or plans adopted by the Trust under the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.), to the extent the activities or plans are consistent with section 3(b)(1).

(3) PUBLIC USE.—The Preserve shall remain open to public use during the interim management period, subject to such terms and conditions as the Secretary determines to be appropriate.

(d) VALLES CALDERA TRUST.—

(1) TERMINATION.—The Trust shall terminate 180 days after the date of enactment of this Act unless the Secretary determines that the termination date should be extended to facilitate the transitional management of the Preserve.

(2) ASSETS AND LIABILITIES.—

(A) ASSETS.—On termination of the Trust—

(i) all assets of the Trust shall be transferred to the Secretary; and

(ii) any amounts appropriated for the Trust shall remain available to the Secretary for the administration of the Preserve.

(B) ASSUMPTION OF OBLIGATIONS.—

(i) IN GENERAL.—On termination of the Trust, the Secretary shall assume all contracts, obligations, and other liabilities of the Trust.

(ii) NEW LIABILITIES.—

(I) BUDGET.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Trust shall prepare a budget for the interim management of the Preserve.

(II) WRITTEN CONCURRENCE REQUIRED.—The Trust shall not incur any new liabilities not authorized in the budget prepared under subclause (I) without the written concurrence of the Secretary.

(3) PERSONNEL.—

(A) HIRING.—The Secretary and the Secretary of Agriculture may hire employees of the Trust on a noncompetitive basis for comparable positions at the Preserve or other areas or offices under the jurisdiction of the Secretary or the Secretary of Agriculture.

(B) SALARY.—Any employees hired from the Trust under subparagraph (A) shall be subject to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(C) INTERIM RETENTION OF ELIGIBLE EMPLOYEES.—For a period of not less than 180 days beginning on the date of enactment of this Act, all eligible employees of the Trust shall be—

(i) retained in the employment of the Trust;

(ii) considered to be placed on detail to the Secretary; and

(iii) subject to the direction of the Secretary.

(D) TERMINATION FOR CAUSE.—Nothing in this paragraph precludes the termination of employment of an eligible employee for cause during the period described in subparagraph (C).

(4) RECORDS.—The Secretary shall have access to all records of the Trust pertaining to the management of the Preserve.

(5) VALLES CALDERA FUND.—

(A) IN GENERAL.—Effective on the date of enactment of this Act, the Secretary shall assume the powers of the Trust over the Fund.

(B) AVAILABILITY AND USE.—Any amounts in the Fund as of the date of enactment of this Act shall be available to the Secretary for use, without further appropriation, for the management of the Preserve.

SEC. 5. REPEAL OF VALLES CALDERA PRESERVATION ACT.

(a) REPEAL.—On the termination of the Trust, the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.) is repealed.

(b) EFFECT OF REPEAL.—Notwithstanding the repeal made by subsection (a)—

(1) the authority of the Secretary of Agriculture to acquire mineral interests under section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–2(e)) is transferred to the Secretary and any proceeding for the condemnation of, or payment of compensation for, an outstanding mineral interest pursuant to the transferred authority shall continue;

(2) the provisions in section 104(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–2(g)) relating to the Pueblo of Santa Clara shall remain in effect; and

(3) the Fund shall not be terminated until all amounts in the Fund have been expended by the Secretary.

(c) BOUNDARIES.—The repeal of the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.) shall not affect the boundaries as of the date of enactment of this Act (including maps and legal descriptions) of—

(1) the Preserve;

(2) the Santa Fe National Forest (other than the modification made by section 4(b));

(3) Bandelier National Monument; and

(4) any land conveyed to the Pueblo of Santa Clara.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

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

Mr. UDALL of New Mexico. Mr. President, today I join Senator BINGAMAN in reintroducing a bill to designate the Valles Caldera National Preserve in New Mexico as a unit of the National Park System. The Valles Caldera is one of the largest volcanic calderas in the world. The vast grass-filled valleys, forested hillsides, and numerous volcanic peaks make the area a treasure to New Mexico, and a landscape of national significance millions of years in the making. It is appropriate that an area of such value be protected in perpetuity as a unit of the National Park Service.

Around 1.5 million years ago a series of explosive rhyolitic eruptions created the massive caldera and dropped hundreds of meters of volcanic ash for miles. This volcanic activity gave the Pajarito Plateau its distinctive cliffs of pink and white tuff overlaying the black basalts of the Rio Grande Rift.

In the millennia following the caldera's explosive creation, erosion and weathering carved vibrant canyons and left pinion-topped mesas stretching like fingers away from the massive crater. In time, magma and water drained from the great valley, and a diversity of plants and wildlife took their place. With such resources and natural beauty, it is no wonder that for millennia people have also been an integral part of the Valles Caldera.

For the Pueblo Tribes of northern New Mexico, the Valles Caldera has been a part of life from time immemorial. The continued cultural and religious significance of the area must and will be respected and protected as the preserve moves into the management of the National Park Service.

Private ownership of the Caldera began with Spanish settlers who introduced livestock to the grassy valleys that continue to fatten elk and cattle in the summer months. After a series of owners managed the caldera, the Federal Government finally purchased the area in 2000 through the Valles Caldera Preservation Act, which I was proud to help shepherd through Congress with Senator BINGAMAN and then-Senator Domenici. The subsequent creation of the Valles Caldera National Preserve included the establishment of a board of directors and the Valles Caldera Trust to manage the area, and mandates for stakeholder involvement and eventual financial self-sufficiency of the Trust.

I applaud the decade of work that both the Board of Trustees and the Valles Caldera Trust have dedicated to the preserve. The exceptional dedication of Caldera employees has led to the creation of a robust science and research program, to the development of incredible educational opportunities for visiting schools and universities, to a restoration of natural resources, and to an expansion of cutting-edge scientific research.

Since 1939, the National Park Service has deemed the area of significant national value because of its unique and unaltered geology, and its singular setting, which are conducive to public recreation, reflection, education, and research. By utilizing the resources and skills within the National Park Service, I believe the Valles Caldera National Preserve will continue to prosper as a natural wonder full of significant geology, ecology, history, and culture.

The bill that we introduce today reflects the comments and proposals that emerged through a successful committee process on a similar bill that Senator BINGAMAN and I introduced last year. In September 2010, the Committee on Energy and Natural Resources reported the bill out favorably, and it is my hope that the Committee will act quickly to move this reintroduced bill to the Senate floor for a vote. I look forward to working with Senator BINGAMAN and all of the stakeholders who care about the future of this preserve to complete our efforts to establish Park Service management of the preserve.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 98—TO EXPRESS THE SENSE OF THE SENATE REGARDING THE SCHOOL BREAKFAST PROGRAM

Mr. KOHL (for himself, Mr. DURBIN, Mr. SCHUMER, Mr. HARKIN, Mrs. GILLIBRAND, and Mr. BROWN of Ohio) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 98

Whereas participants in the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) include public, private, elementary, middle, and high schools, as well as rural, suburban, and urban schools;

Whereas in each of the school years beginning July 1, 2008, and July 1, 2009, 86.3 percent of schools that participated in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) also participated in the school breakfast program;

Whereas in each of the school years beginning July 1, 2008, and July 1, 2009, approximately 10,800,000 students in more than 86,000 schools participated in the school breakfast program on a typical day;

Whereas in fiscal year 2009, approximately 9,100,000 low-income children in the United States consumed free or reduced price school breakfasts on an average school day;

Whereas for every 100 children receiving free and reduced price lunches, approximately 47 children receive free and reduced price breakfasts;

Whereas in each of the school years beginning July 1, 2008, and July 1, 2009, less than half of eligible low-income children received breakfasts at school each day;

Whereas in fiscal year 2009, 62 percent of school lunches served, and 81 percent of school breakfasts served, were served to students who qualified for free or reduced priced meals;

Whereas the current economic situation (including the increase in families living below the poverty line) is causing more families to struggle to feed their children and to turn to schools for assistance;

Whereas implementing or improving classroom breakfast programs has been shown to increase the participation of eligible students in breakfast consumption dramatically, doubling, and in some cases tripling, numbers, as evidenced by research conducted in the States of Minnesota, New York, and Wisconsin;

Whereas making breakfast widely available through different venues or combinations, such as in the classroom, obtained as students exit a school bus, or outside the classroom, has been shown to lessen the stigma of receiving free or reduced price breakfasts, which often deters eligible students from obtaining traditional breakfasts in the cafeteria;

Whereas providing free universal breakfasts, especially in the classroom, has been shown to significantly increase school breakfast participation rates and decrease absences and tardiness;

Whereas studies have shown that access to nutritious meals under the school lunch program and the school breakfast program helps to create a strong learning environment for children and helps to improve the concentration of children in the classroom;

Whereas providing breakfast in the classroom has been shown in several instances to improve attentiveness and academic performance, while reducing tardiness and disciplinary referrals;

Whereas students who eat a complete breakfast have been shown to make fewer mistakes and work faster in math exercises than students who eat a partial breakfast;

Whereas studies suggest that eating breakfast closer to classroom and test-taking time improves student performance on standardized tests relative to students who skip breakfasts;

Whereas studies show that students who skip breakfasts are more likely to have difficulty distinguishing among similar images, show increased errors, and have slower memory recall;

Whereas children who live in families that experience hunger have been shown to be more likely to have lower math scores, face an increased likelihood of repeating a grade, and receive more special education services;

Whereas studies suggest that children who eat breakfasts have more adequate nutrition and intake of nutrients, such as calcium, fiber, protein, and vitamins A, E, D, and B-6;

Whereas studies show that children who participate in school breakfast programs eat more fruits, drink more milk, and consume less saturated fat than children who do not eat breakfast;

Whereas children who fail to eat breakfasts, whether in school or at home, are more likely to be overweight than children who eat a healthy breakfast on a daily basis; and

Whereas March 7 through March 11, 2011, is National School Breakfast Week: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the importance of the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and the overall positive impact of the program on the lives of low-income children and families, as well as the effect of the program on helping to improve the overall classroom performance of a child;

(2) expresses support for States that have successfully implemented school breakfast programs in order to improve the test scores and grades of participating students;

(3) encourages States—

(A) to strengthen school breakfast programs by improving access for students;

(B) to promote improvements in the nutritional quality of breakfasts served; and

(C) to inform students and parents of healthy nutritional and lifestyle choices;

(4) recognizes that the Healthy, Hunger-Free Kids Act of 2010 (Public Law 111–296) and amendments made by that Act provide low-income children with greater access to a nutritious breakfast nationwide;

(5) recognizes the impact of nonprofit and community organizations that work to increase awareness of, and access to, breakfast programs for low-income children; and

(6) recognizes that National School Breakfast Week celebrated from March 7 through March 11, 2011, helps draw attention to the need for, and success of, the school breakfast program.

SENATE RESOLUTION 99—EXPRESSING THE SENSE OF THE SENATE THAT THE PRIMARY SAFEGUARD FOR THE WELL-BEING AND PROTECTION OF CHILDREN IS THE FAMILY, AND THAT THE PRIMARY SAFEGUARDS FOR THE LEGAL RIGHTS OF CHILDREN IN THE UNITED STATES ARE THE CONSTITUTIONS OF THE UNITED STATES AND THE SEVERAL STATES, AND THAT, BECAUSE THE USE OF INTERNATIONAL TREATIES TO GOVERN POLICY IN THE UNITED STATES ON FAMILIES AND CHILDREN IS CONTRARY TO PRINCIPLES OF SELF-GOVERNMENT AND FEDERALISM, AND THAT, BECAUSE THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD UNDERMINES TRADITIONAL PRINCIPLES OF LAW IN THE UNITED STATES REGARDING PARENTS AND CHILDREN, THE PRESIDENT SHOULD NOT TRANSMIT THE CONVENTION TO THE SENATE FOR ITS ADVICE AND CONSENT

Mr. DEMINT (for himself, Mr. BARRASSO, Mr. BURR, Mr. BLUNT, Mr. BOOZMAN, Mr. CHAMBLISS, Mr. COBURN, Mr. CORNYN, Mr. CRAPO, Mr. ENSIGN, ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. KYL, Mr. LEE, Mr. MCCAIN, Mr. MORAN, Mr. PAUL, Mr. RISCH, Mr. RUBIO, Mr. SESSIONS, Mr. VITTER, and Mr. WICKER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 99

Whereas the Senate affirms the commitment of the people and the Government of the United States to the well-being, protection, and advancement of children, and the protection of the inalienable rights of all persons of all ages;

Whereas the Constitution and laws of the United States and those of the several States are the best guarantees against mistreatment of children in this Nation;

Whereas the Constitution, laws, and traditions of the United States affirm the rights of parents to raise their children and to impart their values and religious beliefs;

Whereas the United Nations Convention on the Rights of the Child, adopted at New York November 20, 1989, and entered into force September 2, 1990, if ratified, would become a part of the supreme law of the land, taking precedence over all State laws and constitutions;

Whereas the United States, and not the several States, would be held responsible for compliance with this Convention if ratified, and as a consequence, the United States would create an incredible expansion of subject matter jurisdiction over all matters concerning children, seriously undermining the constitutional balance between the Federal Government and the governments of the several States;

Whereas Professor Geraldine Van Bueren, the author of the principal textbook on the international rights of the child, and a participant in the drafting of the Convention, has described the ''best interest of the child

standard'' in the treaty as ''provid[ing] decision and policy makers with the authority to substitute their own decisions for either the child's or the parents'';

Whereas the Scottish Government has issued a pamphlet to children of that country explaining their rights under the Convention, which declares that children have the right to decide their own religion and that parents can only provide advice;

Whereas the United Nations Committee on the Rights of the Child has repeatedly interpreted the Convention to ban common disciplinary measures utilized by parents;

Whereas the Government of the United Kingdom was found to be in violation of the Convention by the United Nations Committee on the Rights of the Child for allowing parents to exercise a right to opt their children out of sex education courses in the public schools without a prior government review of the wishes of the child;

Whereas the United Nations Committee on the Rights of the Child has held that the Governments of Indonesia and Egypt were out of compliance with the Convention because military expenditures were given inappropriate priority over children's programs;

Whereas these and many other interpretations of the Convention by those charged with its implementation and by other authoritative supporters demonstrates that the provisions of the United Nations Convention on the Rights of the Child are utterly contrary to the principles of law in the United States and the inherent principles of freedom;

Whereas the decisions and interpretations of the United Nations Committee on the Rights of the Child would be considered by the Committee to be binding and authoritative upon the United States should the United States Government ratify the Convention, such that the Convention poses a threat to the sovereign rights of the United States and the several States to make final determinations regarding domestic law; and

Whereas the proposition that the United States should be governed by international legal standards in its domestic policy is tantamount to proclaiming that the Congress of the United States and the legislatures of the several States are incompetent to draft domestic laws that are necessary for the proper protection of children, an assertion that is not only an affront to self-government but an inappropriate attack on the capability of legislators in the United States: Now, therefore, be it

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

(1) the United Nations Convention on the Rights of the Child, adopted at New York November 20, 1989, and entered into force September 2, 1990, is incompatible with the Constitution, the laws, and the traditions of the United States;

(2) the Convention would undermine proper presumptions of freedom and independence for families in the United States, supplanting those principles with a presumption in favor of governmental intervention without the necessity for proving harm or wrongdoing;

(3) the Convention would interfere with the principles of sovereignty, independence, and self-government in the United States that preclude the necessity or propriety of adopting international law to govern domestic matters; and

(4) the President should not transmit the Convention to the Senate for its advice and consent.

SENATE RESOLUTION 100—DESIGNATING MARCH 11, 2011, AS ''WORLD PLUMBING DAY''

Mr. BENNET (for himself, Mrs. MURRAY, and Mr. MERKLEY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 100

Whereas the industry of plumbing plays an important role in safeguarding the public health of the people of the United States and the world;

Whereas 884,000,000 people around the world do not have access to safe drinking water;

Whereas 2,600,000,000 people around the world live without adequate sanitation facilities;

Whereas the lack of sanitation is the largest cause of infection in the world;

Whereas in the developing world, 24,000 children under the age of 5 die every day from preventable causes, such as diarrhea contracted from unclean water;

Whereas safe and efficient plumbing helps save money and reduces future water supply costs and infrastructure costs;

Whereas the installation of modern plumbing systems must be accomplished in a specific, safe manner by trained professionals in order to prevent widespread disease, which can be crippling and deadly to the community;

Whereas the people of the United States rely on plumbing professionals to maintain, repair, and rebuild the aging water infrastructure of the United States; and

Whereas Congress and plumbing professionals across the United States and the world are committed to safeguarding public health: Now, therefore, be it

Resolved, That the Senate designates March 11, 2011, as ''World Plumbing Day''.

Mr. BENNETT. Mr. President, I am proud to rise today to submit a resolution designating March 11 as World Plumbing Day.

Water is our planet's most precious resource, and it is also a resource the developed world often takes for granted. When we stop at a drinking fountain, or when we prepare dinner for our families, we are confident that the water emerging from the tap is free of harmful and dangerous contaminants.

Yet a reliable supply of water needed to maintain life is not readily available to nearly one billion people around the world. In fact, the ravages of water insecurity and inadequate sanitation claim 6,000 lives every day. The majority of these casualties are children. Nearly one in five child deaths worldwide is due to waterborne illness.

Modern plumbing technologies can prevent deaths and combat sickness. By supporting access to safe drinking water and proper sanitation through sound plumbing infrastructure and minimum plumbing codes, we can significantly raise quality of life and help to eliminate a historic cause of human suffering.

Today I stand in gratitude to our skilled, licensed plumbers and pipe fitters who work hard every day to ensure that the plumbing systems and infrastructure in our homes, places of business, and communities continue to function properly and provide us with water safe for consumption.

I would like to thank the International Association of Plumbing and Mechanical Officials, IAPMO, for raising awareness of this important issue. These individuals work diligently to create and maintain the Uniform Plumbing Code, which serves as the foundation for all plumbing installation and inspection activities for over half the world's population.

IAPMO is the only model code developer in America utilizing an open consensus process accredited by the American National Standards Institute, ANSI, for plumbing and mechanical codes. Worldwide, IAPMO and its members are on the front lines of public health and safety in assisting cities, counties, states, and countries with developing plumbing codes and providing training that protects our communities and saves lives.

I submit this resolution in recognition of the importance of clean water and the important contribution to America being made every single day by those men and women who maintain our plumbing infrastructure.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 10, 2011, at 9:30 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 10, 2011, at 9:30 a.m. to conduct a hearing entitled ''The Fiscal Year 2012 Budget for the Sec.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SANDERS. 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 March 10, 2011, at 10 a.m. in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on March 10, 2011, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to

meet during the session of the Senate on March 10, 2011, at 10 a.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled ''Innovations in Child Welfare Waivers: Starting on the Pathway to Reform.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. SANDERS. 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, to conduct a hearing entitled ''Bridgepoint Education, Inc.: A Case study in For-Profit Education and Oversight'' on March 10, 2011, at 10 a.m., in 430 Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SANDERS. 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 March 10, 2011, at 10 a.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SANDERS. 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 March 10, 2011, at 3 p.m. to conduct a hearing entitled ''Information Sharing in the Era of WikiLeaks: Balancing Security and Collaboration.''

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

COMMITTEE ON THE JUDICIARY

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on March 10, 2011, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SANDERS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 10, 2011, at 2:30 p.m.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 41; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, there be no intervening action or debate, and that no further motion be in order to the nomination; that any related statements be printed in the RECORD, and the President be immediately notified of the Senate's action.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF JUSTICE

Timothy J. Feighery, of New York, to be Chairman of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2012.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent the Senate resume legislative session.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent on Monday, March 14, at 4:30 p.m., the Senate proceed to executive session to consider Calendar No. 10; that there be 1 hour of debate equally divided in the usual form; that upon the use or yielding back of the time, the Senate proceed to vote with no intervening action or debate on Calendar No. 10; the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motion be in order, and any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

ORDERS FOR MONDAY, MARCH 14, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m., on Monday, March 14; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, there be a period of morning business until 4:30 p.m., with Senators permitted to speak for up to 10 minutes each; that following morning business, the Senate proceed to executive session, as provided under the previous order.

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

PROGRAM

Mr. REID. Mr. President, Senators should expect two rollcall votes beginning at 5:30 p.m. on Monday. The first vote will be on confirmation of Executive Calendar No. 10, the nomination of James Emanuel Boasberg, of the District of Columbia, to be U.S. District Judge for the District of Columbia, and the second vote will be on a motion to invoke cloture on the motion to proceed to Calendar No. 17, the Small Business Reauthorization Act.

ORDER FOR ADJOURNMENT

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order, following the remarks of the assistant majority leader of the Senate, RICHARD DURBIN.

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

Mr. DURBIN. Mr. President, are we still in morning business?

The PRESIDING OFFICER. Yes.

INTERCHANGE FEE REFORM

Mr. DURBIN. Mr. President, I rise to speak about the issue of interchange fee reform. Last year, Congress enacted landmark reform of the swipe fees that Visa and MasterCard impose on the debit card system. An amendment I offered to Wall Street reform passed the Senate with 64 votes—47 Democrats, 17 Republicans—and was later signed into law. It was the first amendment out of the first 26 on that bill that was held to a 60-vote standard. Every other amendment before was held to a simple majority. But I was lucky enough, when I offered the amendment, that there was an insistence that we had to reach 60 votes. We did it, 47 Democrats and 17 Republicans. It was a great victory, and one that came as a surprise to Wall Street, because Main Street—the retail merchants, the restaurants, the convenience stores, and many others—had worked hard for this amendment.

Never before had Visa and MasterCard, the duopoly of credit cards, and their big bank allies lost a vote such as this in Congress. Normally, the credit card companies and the big banks are used to getting their way in this town. Visa and MasterCard have such power that they control over 75 percent of all credit and debit card transactions in America. Last year, $1.39 trillion was transacted on Visa and MasterCard debit cards. According to the American Bankers Association, the U.S. banking industry is a $13 trillion industry. That is trillion with a ''t.''

Many Members in this body are being lobbied right now by banks and card companies to repeal this law, to undo the interchange reform Congress passed last year. It is one of the most active lobbying efforts I have ever seen.

I want to explain why interchange reform is so important, not just for the concepts of competition and transparency but also for the people and businesses affected, for small businesses and consumers and the American economy.

A little background on the debit card industry: Debit cards are simply a way for accountholders to access funds stored in an account. They are the electronic version of a check.

Debit cards are issued by banks, such as Bank of America, where the account is held. The cards are also part of a card network such as Visa or MasterCard, which set certain fees and rules about using their cards.

The banks that issue the debit cards can make money in several ways. They make loans based on deposits and earn interest. They charge fees to consumers for maintaining and accessing accounts such as ATM, monthly, overdraft, and transfer fees. They also receive interchange fees from merchants every time one of their debit cards is used.

If you look at any bank's Web site, you can find the loan interest rates and the account fees the bank charges customers. Banks compete with one another for this consumer business. That competition keeps their fees in check. It is called the free market. But ask any bank to show you on their Web site where you can find the interchange fees that the bank charges merchants, restaurants, universities, charities, convenience stores, ask them what they charge as an interchange fee for the use of their debit cards, the bank will say: Well, you will have to call Visa or MasterCard.

Card companies such as Visa fix the interchange fee rates received by issuing banks, the banks that have their name on the card next to the Visa symbol. In other words, thousands of banks that compete with one another in all other aspects of business do not compete with one another when it comes to how much in so-called swipe fees or interchange fees they get from merchants. The banks let Visa set the prices for all of them.

Visa has decided that every bank that issues Visa cards will get the same rate as every other bank, no matter how efficient a bank is, no matter how much fraud a bank allows. Rather than a competitive system, this is a system which subsidizes inefficiency. In fact, the only competition in the interchange system right now is the competition between card networks to raise interchange fees. They raise the rates in order to get banks to join the network and issue more of their cards.

It is easy to see why banks and card networks set up this system. It makes the banks happy because they get billions of dollars a year in high fees, and they don't have to worry about competition. It makes the networks happy because they get their own network fee each time a card is swiped, and high interchange means banks will issue more cards.

But it is unfair to those who are receiving the cards—for example, the restaurants, the merchants, the shops, the book stores, universities, charities, convenience stores—because they have no power to negotiate this fee. They can't hold off and say: Wait a minute, if you want us to take Visa at our store, we want to know how much you are going to charge us every time a customer uses a Visa card. There is no way to have any conversation on that. Visa establishes what the swipe fee will be.

It is also unfair to consumers, particularly low-income consumers and those without banking accounts, who pay billions per year in hidden interchange fees that are passed on to them in higher prices for gas and groceries. How about that. I had some people in my office today talking about the price of gasoline. They said: Understand, every time a customer uses a Visa or a MasterCard, they are taking a percentage of that cost on the gallon of gasoline. Their percentage keeps going up, and in order to have a profit, to keep the lights on, we have to keep raising the price of gasoline to keep up with the credit card companies, let alone the national oil companies.

The Federal Reserve estimated that in 2009, about $16.2 billion was charged in debit interchange fees, a massive amount of money that is being paid to the banks by merchants and their customers, about $1.3 billion a month. I will get back to that number in a moment. It didn't used to be that way in America. It isn't that way in many other countries that use Visa and MasterCard.

Back when the debit card system was started several decades ago, debit fees were minimal. It wasn't until Visa entered the market in the 1990s that we started seeing debit card interchange fees that looked like credit card interchange fees.

They are two different worlds. When I use a credit card, ultimately, the bank and credit card company have to collect from me. If I dodge them or don't pay, there is a loss. A debit card comes directly out of my account. There is no question whether the money is there. It is already there.

There is an excellent New York Times article by Andrew Martin from last year titled ''How Visa, Using Card Fees, Dominates a Market.''

I ask unanimous consent to have that article printed in the RECORD.

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

[From the New York Times, Jan. 5, 2010]

THE CARD GAME—HOW VISA, USING CARD FEES, DOMINATES A MARKET

(By Andrew Martin)

Every day, millions of Americans stand at store checkout counters and make a seemingly random decision: after swiping their debit card, they choose whether to punch in a code, or to sign their name.

It is a pointless distinction to most consumers, since the price is the same either way. But behind the scenes, billions of dollars are at stake.

When you sign a debit card receipt at a large retailer, the store pays your bank an average of 75 cents for every $100 spent, more than twice as much as when you punch in a four-digit code.

The difference is so large that Costco will not allow you to sign for your debit purchase in its checkout lines. Wal-Mart and Home Depot steer customers to use a PIN, the debit card norm outside the United States.

Despite all this, signature debit cards dominate debit use in this country, accounting for 61 percent of all such transactions, even though PIN debit cards are less expensive and less vulnerable to fraud.

How this came to be is largely a result of a successful if controversial strategy hatched decades ago by Visa, the dominant payment network for credit and debit cards. It is an approach that has benefited Visa and the nation's banks at the expense of merchants and, some argue, consumers.

Competition, of course, usually forces prices lower. But for payment networks like Visa and MasterCard, competition in the card business is more about winning over banks that actually issue the cards than consumers who use them. Visa and MasterCard set the fees that merchants must pay the cardholder's bank. And higher fees mean higher profits for banks, even if it means that merchants shift the cost to consumers.

Seizing on this odd twist, Visa enticed banks to embrace signature debit—the higher-priced method of handling debit cards—and turned over the fees to banks as an incentive to issue more Visa cards. At least initially, MasterCard and other rivals promoted PIN debit instead.

As debit cards became the preferred plastic in American wallets, Visa has turned its attention to PIN debit too and increased its market share even more. And it has succeeded—not by lowering the fees that merchants pay, but often by pushing them up, making its bank customers happier.

In an effort to catch up, MasterCard and other rivals eventually raised fees on debit cards too, sometimes higher than Visa, to try to woo bank customers back.

''What we witnessed was truly a perverse form of competition,'' said Ronald Congemi, the former chief executive of Star Systems, one of the regional PIN-based networks that has struggled to compete with Visa. ''They competed on the basis of raising prices. What other industry do you know that gets away with that?''

Visa has managed to dominate the debit landscape despite more than a decade of litigation and antitrust investigations into high fees and anticompetitive behavior, including a settlement in 2003 in which Visa paid $2 billion that some predicted would inject more competition into the debit industry.

Yet today, Visa has a commanding lead in signature debit in the United States, with a 73 percent share. Its share of the domestic PIN debit market is smaller but growing, at 42 percent, making Visa the biggest PIN network, according to The Nilson Report, an industry newsletter.

THE RISK OF REFUSING

Critics complain that Visa does not fight fair, and that it used its market power to force merchants to accept higher costs for debit cards. Merchants say they cannot refuse Visa cards because it would result in lower sales.

''A dollar is no longer a dollar in this country,'' said Mallory Duncan, senior vice president of the National Retail Federation, a trade association. ''It's a Visa dollar. It's only worth 99 cents because they take a piece of every one.''

Visa officials say its critics are griping about debit products that have transformed the nation's payment system, adding convenience for consumers and higher sales for merchants, while cutting the hassle and expense of dealing with cash and checks. In recent years, New York cabbies and McDonald's restaurants are among those reporting higher sales as a result of accepting plastic.

''At times we have a perspective problem,'' said William M. Sheedy, Visa's president for the Americas. ''Debit has become so mainstream, some of the people who have benefited have lost sight of what their business model was, what their cost structure was.''

Visa officials said the costs of debit for merchants had not gone down because the cards now provided greater value than they did five or 10 years ago. The costs must not be too onerous, they say, because merchant acceptance has doubled in the last decade.

The fees are ''not a cost-based calculation, but a value-based calculation,'' said Elizabeth Buse, Visa's global head of product.

As for Visa's market share, company officials maintain that it is rather small when considered within the larger context of all payments, where, for now at least, cash remains king.

While Visa may be among the best-known brands in the world, how it operates is a mystery to many consumers.

Visa does not distribute credit or debit cards, nor does it provide credit so consumers can buy flat-screen televisions or a Starbucks latte. Those tasks are left to the banks, which owned Visa until it went public in 2008.

Instead, Visa provides an electronic network that acts like a tollbooth, processing the transaction between merchants and banks and collecting a fee that averages 5 or 6 cents every time. For the financial year ended in June, Visa handled 40 billion transactions. Banks that issue Visa cards also pay a separate licensing fee, based on payment volume. MasterCard, which is roughly half the size of Visa, uses a similar model.

''It's a penny here or there,'' said Moshe Katri, an analyst who tracks the payments industry for Cowen and Company. ''But when you have a billion transactions or more, it adds up.''

With debit transactions forecast to overtake cash purchases by 2012, the model has investors swooning: Visa's stock traded at $88.14 on Monday, near a 52–week high, while shares of MasterCard, at $256.84 each, have soared by more than 450 percent since the company went public in 2006.

While there is little controversy about the fees that Visa collects, some merchants are infuriated by a separate, larger fee, called interchange, that Visa makes them pay each time a debit or credit card is swiped. The fees, roughly 1 to 3 percent of each purchase, are forwarded to the cardholder's bank to cover costs and promote the issuance of more Visa cards.

The banks have used interchange fees as a growing profit center and to pay for cardholder perks like rewards programs. Interchange revenue has increased to $45 billion today, from $20 billion in 2002, driven in part by the surge in debit card use.

Some merchants say there should be no interchange fees on debit purchases, because the money comes directly out of a checking account and does not include the risks and losses associated with credit cards. Regardless, merchants say they inevitably pass on that cost to consumers; the National Retail Federation says the interchange fees cost households an average of $427 in 2008.

While the cost per transaction may seem small, at Best Buy, the biggest stand-alone electronics chain, ''these skyrocketing fees add up to hundreds of millions of dollars every year,'' said Dee O'Malley, director of financial services. ''Every additional dollar we are forced to pay credit card companies is another dollar we can't use to hire employees, or pass along to our customers in the form of savings.''

WEIGHING RULES ON MERCHANTS

The Justice Department is investigating if rules imposed by payment networks, including Visa, on merchants regarding ''various payment forms'' are anticompetitive, a spokeswoman said. Several bills have been introduced in Congress seeking to give merchants more ability to negotiate interchange, which is largely unregulated.

While interchange remains legal despite repeated challenges, a group of merchants is pursuing yet another class-action suit, this time in federal court in Brooklyn, against Visa and MasterCard that seeks to upend the system for setting fees.

''Visa and MasterCard have morphed into a giant cookie jar for banks at the expense of consumers,'' said Mitch Goldstone, a plaintiff in the case.

Fees were not an issue when debit cards first gained traction in the 1980s. The small networks that operated automated teller machines, like STAR, Pulse, MAC and NYCE, issued debit cards that required a PIN. MasterCard had its own PIN debit network, called Maestro.

Merchants were not charged a fee for accepting PIN debit cards, and sometimes they even got a small payment because it saved banks the cost of processing a paper check.

That changed after Visa entered the debit market. In the 1990s, Visa promoted a debit card that let consumers access their checking account on the same network that processed its credit cards, which required a signature.

To persuade the banks to issue more of its debit cards, Visa charged merchants for these transactions and passed the money to the issuing banks. By 1999, Visa was setting fees of $1.35 on a $100 purchase, while Maestro and other regional PIN networks charged less than a dime, Federal Reserve data shows. Visa says the fee was justified because signature debit was so much more useful than PIN debit; at the time, roughly 15 percent of merchants had keypads for entering a PIN.

Merchants said they had no choice but to continue taking the debit cards, despite the higher fees; because Visa's rules required them to honor its debit cards if they chose to accept Visa's credit cards.

A SEVEN-YEAR BATTLE

Wal-Mart, Circuit City, Sears and a number of major merchants eventually sued. After seven years of litigation, Visa and MasterCard agreed to end the ''honor all cards'' rule between credit and debit and to pay the retailers a settlement of around $3 billion, one of the largest in American corporate history. Visa paid $2 billion, and MasterCard the remainder.

Since then, only a handful of retailers have stopped accepting Visa debit cards, an indication that the crux of the lawsuit was ''much ado about nothing,'' Mr. Sheedy says.

And while some merchants said they thought the lawsuit would pave the way to a new era of competition, a curious thing happened instead: while Visa temporarily lowered its fees for signature debit, it raised the price on PIN debit transactions and passed the funds on to card-issuing banks, and its competitors soon followed.

The current class-action lawsuit joined by Mr. Goldstone contends that Visa's PIN debit network, called Interlink, is offering banks higher fees as an incentive to issue debit cards that are exclusively routed over this network. Interlink, which has raised its PIN debit fees for small merchants to 90 cents for each $100 transaction, from 20 cents in 2002, is often the most expensive, especially for small merchants, Fed data shows.

One large retailer, who requested anonymity to preserve its relationship with Visa, provided data that showed Interlink's share of PIN purchases rose to 47 percent in 2009, from 20 percent in 2002, even as its fees steadily increased ahead of most other networks—to 49 cents per $100 transaction in 2009, from 38 cents in 2006.

Visa officials say its PIN debit network is taking off despite rising costs because it offers merchants, banks and consumers a level of efficiency and security that regional networks cannot match. ''We are motivated as a company to try to drive value to each one of those participants so that they accept the card, issue more cards, use the card,'' Mr. Sheedy said.

At checkout counters, meanwhile, consumers are quietly tugged in one direction or the other.

Safewasy, 7-Eleven and CVS drugstores automatically prompt consumers to do a less costly PIN debit transaction. The banks, however, still steer consumers toward the more expensive form of signature debit. Wells Fargo and Chase are among those that offer bonus points only on debit purchases completed with a signature.

Visa says it does not care how consumers use their debit card, as long as it is a Visa. But for now at least, the company says the only way to ensure that a purchase is routed over the Visa network is to sign.

''When you use your Visa card, you have a chance to win a trip to the Olympic Winter Games,'' a new Visa commercial promises.

The commercial does not explain the rules, but the fine print on Visa's Web site does: nearly all Visa purchases are eligible—as long as the cardholder does not enter a PIN.

Mr. DURBIN. I urge my colleagues to read it. It shows how Visa leveraged its dominance in the credit card industry to enter into and dominate the debit card industry. Visa then changed the debit interchange fee system so it looked like the credit card fee system. The result: the United States has the highest interchange fees in the world.

We also have some of the worst fraud prevention technology in the world. This is because Visa gives banks higher interchange rates for so-called signature debit transactions instead of PIN debit transactions. So the banks tell their customers to pay with signature debit, even though far less fraud occurs with the use of PIN numbers.

It doesn't have to be this way. Many countries such as Canada have thriving debit card systems with zero interchange fees. Canada has low fraud and wide consumer debit usage. Other places such as the European Union carefully regulate interchange rates to keep them to a reasonable level. But in this country, we have let dominant card networks—and they are a powerful bunch—take over our debit card system. They are driving that system on an unsustainable course.

I have worked for years to reform interchange fees and to bring transparency, competition, and choice to the credit card and debit card industry. I first introduced a bill on this in 2008. In 2009, I joined with Senator Kit Bond of Missouri to file a modest floor amendment to the Credit CARD Act. The amendment simply said interchange fees should be reported to the Federal Reserve and that Visa and MasterCard should not be allowed to stop merchants from offering discounts for debit cards against credit cards. The card companies and bank industry hated that idea like the devil hates

holy water. They did everything they could to kill the amendment. They used their standard talking points, saying this amendment would hurt consumers, small banks, credit unions, the economy, everything one could think of. The amendment never reached a vote. Instead, in 2009, the banks and card companies said they would support a study. We love to study things in Washington. So Congress delayed real reform and said: Let's get on with the study.

Last year, I said: Enough is enough. We can't continue to let Visa, MasterCard, and the big banks use price-setting schemes to turn our debit card system into their own large piggy bank at the expense of merchants and consumers. The amendment I offered last year said: If banks are going to let a card network set interchange rates for them, those rates must be reasonable and proportional to the cost of processing a debit transaction over that network's wires.

Why would we bring the Federal Reserve in to establish a reasonable and proportional interest change fee? Because there is no competition in this market. Visa and MasterCard, recently under investigation by the Department of Justice for their practices, establish what these interchange fees are going to be. They impose them on merchants who many times are told late in the game how much the fee is. They don't bargain. Merchants can't shop around. There is no competition when it comes to the establishment of interchange fees.

The amendment will end this inefficient subsidy that Visa and MasterCard have created for banks, and it will incentivize banks to operate their card systems efficiently. The amendment directs the Fed to issue regulations to implement this reasonable and proportional standard. The Fed issued draft regulations in December and is now working on final regulations to be completed in April and take effect in July.

Do my colleagues know what they found in their initial cut at this? The average interchange fee is in the range of 40 cents, and the average cost to use a debit card is about 10 cents. Think of the overcharge that is going on with every single transaction. The next time you are standing in the airport and somebody hands a debit card to the cashier to pay for a pack of gum, think about that retailer just having lost money. The only ones who made money in the transaction were Visa, MasterCard and the issuing bank.

Last year, when I was drafting this amendment, I knew we had to be careful about the way the reform would affect small banks and credit unions that currently benefit from the rates Visa and MasterCard set. I didn't want to drive small issuers out of the debit card market. So my amendment specifically exempted them from regulation. That means that now, just like before, networks will compete by raising interchange rates to win the business of those small, unregulated issuers.

I know the small banks and credit unions are also lobbying on the Hill, saying that interchange reform will hurt them. For years, they have been making this argument against any type of reform. I have been on the Hill for a while, in the House and in the Senate.

I used to really believe there was a qualitative—not just quantitative but a qualitative—difference between community banks and credit unions and the big boys, the Wall Street banks. Over the years, I am sorry to say when it comes to these issues, they are the same. It is just a quantitative difference. Credit unions and community banks are smaller, but in terms of the way they look at issues, there is not a dime's worth of difference.

When it comes to this issue, there is an interesting phenomenon at work. Visa and MasterCard do not dare raise their head on Capitol Hill. If there are two more unpopular companies with American consumers, it is hard to think of what they might be. Maybe today it is oil companies. But it is a close second with credit card companies and the way they treat people. So they do not come in and lobby.

Well, how about the Wall Street banks? Do you think they are going to show up here and say: You cannot regulate these interchange fees? Two-thirds of the debit cards come from the biggest banks out of Wall Street, not the community banks and credit unions. So the big money in this whole transaction is on Wall Street. But you do not hear from the Wall Street banks. Why? Because they are not going to win any popularity contests either.

It was not that long ago we were shoveling billions of taxpayer dollars at these banks to keep the lights on after they made some pretty stupid investment decisions that drove our economy into the ditch. So they cannot lobby, the big banks, with the big money involved in this issue. The credit card companies cannot lobby because they have no popularity with the American consumer. So what do they do? They have some beards, and the beards in these circumstances are the credit unions and the community banks. Those specifically exempted are now coming to Congress, coming to Capitol Hill, saying this could hurt us in the future.

We drew a line and said if the asset value of the financial institution is below $10 billion—$10 billion—they are not affected by this law. There are, if I recall, only three credit unions in America with assets over $10 billion. The vast majority, the overwhelming majority, of credit unions in this country do not have anywhere near that kind of asset value. The same thing is true with community banks.

So Wall Street banks and credit card companies have found their great agents. Their agents are the credit unions, community banks, presenting their case to the Members of Congress as if they are directly regulated when they are specifically exempted from this.

I know the small banks and the credit unions are working the Hill. For years, they have been using these arguments against any type of reform. When we tried to get bankruptcy reform to deal with foreclosures a few years back—and I honestly think it could have had a dramatically positive impact to slow down foreclosures in this Nation—we specifically exempted credit unions and community banks, and they still lobbied against it. They are in concert when it comes to issues with the biggest banks in America. I do not understand it. It is a dramatic departure from where they have been historically.

Independent analysts agree that the reform Congress passed last year will give small banks actual competitive advantages over big banks. I ask unanimous consent to have printed in the RECORD a recent op-ed by Andrew Kahr in the American Banker newspaper entitled ''Never Mind the Lobbyists, Durbin Amendment Helps Small Banks.''

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

[From American Banker—BankThink, Mar. 3, 2011]

NEVER MIND THE LOBBYISTS, DURBIN AMENDMENT HELPS SMALL BANKS

The Durbin Amendment in Dodd-Frank lowers the interchange paid to large banks on debit card purchase transactions, and hence takes money away from these banks to give it to merchants, almost dollar for dollar. When passed, this provision was politically popular. It was a time for bank-bashing.

Now this component of Dodd-Frank is much less popular. Maybe legislators have noticed that even if Wal-Mart passed through every last penny of the 0.7% of debit card sales it's apt to save to customers in the form of lower prices, the consumer benefit is likely to be invisible to voters. In any event, the banks have made themselves highly audible to voters in shrill but absurd threats to cap debit card purchases at $50 and the like. Another form of lobbying.

One of the arguments made against the Durbin restriction on interchange is that it will hurt community banks.

Poppycock.

Since Durbin explicitly excludes banks with assets under $10 billion from the restriction on interchange, it takes a hyperactive imagination to see how these banks could be hurt by it. Lobbyists have the requisite inventiveness.

If large banks get 75% less interchange than they do now and small banks continue to get today's interchange rates, then obviously this confers a substantial competitive advantage on the small banks. They can impose lower fees, pay more interest, and give greater rewards to depositors. Anything that reduces revenue for big banks but not for small ones should help the latter compete more effectively against the former.

In opposition to common sense, bank lobbyists have put forward some very farfetched arguments about how, in some upside-down world, small banks are still going to be losers rather than winners from Durbin.

One argument is that the clearing networks, of which there are only four that

matter, will not support the ''two-tier'' interchange system envisaged by Durbin. Ridiculous. Visa is the largest of the networks. It's already announced that it will implement Durbin. (Maybe this is an object lesson as to why Visa remains No. 1.)

For the small banks, MasterCard is the only other significant player. If MasterCard finds it politic not to add one more wrinkle to a skein of interchange levels that is already of Byzantine complexity, then let the small banks gravitate to Visa in order to benefit from Durbin.

A second argument of the big-bank lobbyists is that merchants will reject the debit cards of small banks if these carry a 1% interchange cost, versus 0.3% for the large banks. Really? Then why don't these merchants reject all credit cards, with interchange of 2% or more, if the customer could instead use a debit card? When is the last time a merchant politely asked you whether you could pay with a debit card instead of a credit card?

The reason merchants don't do this, apart from association rules that purport to prohibit it, is that the retailer's top priority is sales, not interchange. Selective ''suppression'' of cards by merchants has occurred with extreme rarity. One instance took place long ago when merchants in Boston revolted against higher interchange rates from American Express. This can't happen now. Are cashiers in stores going to look at a list of small banks in order to discriminate against their cards—and then have customers walk out and leave their would-be purchases at the cash register? The fraction of customers who would be persuaded to change banks or carry two debit cards is infinitesimal.

The notion that merchants will give discounts on big-bank debit cards but not small-bank debit cards is equally silly. Since when did they offer an incentive to use debit rather than credit cards? If they are not motivated to do so by 2.3% versus 1% interchange, then why should they be motivated by 1% versus 0.3%?

Finally, we are warned that a second, utterly unrelated provision of Durbin that mandates competitive network routing will somehow injure small banks. Impossible. It is predominantly the biggest banks that have negotiated exclusive or volume-dependent routing deals with Visa or others. This too gives them an advantage over small banks that Durbin will undermine or erase—to the benefit of the small banks.

The charm of the Durbin debate on interchange is that it largely amounts to ''Who's going to get the money, big banks or merchants?'' (In other words, ''Which do you like less, Congressman, big banks, or big merchants?'')

Outside the realms of taxation and appropriations, it is unusual to see such a choice so sharply focused for our representatives in Washington.

Ben Bernanke and other regulators would like to see less pressure on big-bank earnings and capital. That's understandable. Maybe it's even a winning—though illogical—argument.

But let's not talk nonsense about bogeyman danger to community banks.

Mr. DURBIN. Now, Kahr is no mouthpiece for merchants. He is a financial consultant who is recognized as the creator of many aspects of the modern card industry. But he says what I have been saying for months—that the arguments small banks have been making against my amendment defy economic logic and common sense.

I also believe interchange reform is essential for consumers. Banks will tell you consumers will be hurt by reform because banks will have to raise consumer fees to make up for lost revenue.

First, when did we start listening to banks and credit card companies to tell us what is good for consumers? Second, read the headlines for the past few years and you will see that banks were already raising consumer fees to record highs in 2008, 2009, and 2010—before my amendment became law. They are always looking for ways to raise fees on consumers as high as the market will allow.

Third, consumers are already paying for the current interchange system. Soaring interchange fees are passed on to consumers in the form of higher prices for gasoline and groceries. And the current system particularly hurts unbanked consumers who pay with cash.

I believe consumers benefit from transparency, competition, and choice. The current interchange system has been designed specifically to avoid these features. That is why consumer groups agree with me and support the interchange reform which we have on the books.

I know the financial industry lobbyists are out there now storming the Halls of Congress. They are saying: Let's delay the Fed's interchange rulemaking for a year or two. Let's study this issue some more. Study, study, study; this is one great study hall, this U.S. Senate. But there comes a point when we need to act, and we are prepared to act now with the Federal Reserve in April and in July.

There is no need to delay these rules. Read the comments I submitted to the Fed about their draft rulemaking. You will see how the new law provides reasonable timeframes for implementing every part of the Fed's rules.

I saw this call for delay and study before, on the Credit CARD Act back in 2009, and it does not surprise me we are hearing it again.

If my colleagues remember nothing else, they should remember this: Delaying interchange reform will have significant consequences to employers, small businesses, and consumers all across America. Not only will businesses, universities, government agencies, and charities keep paying the current $1.3 billion per month in debit interchange fees, the fees will keep going up further. There will be nothing to constrain Visa and MasterCard from setting higher and higher fees. There is no competition in this industry.

Some of my colleagues say they are concerned about small banks and consumers. So am I. That is why I drafted the amendment to exempt them. Independent analysts and consumer groups agree that the reform we passed protects small banks and consumers.

I say to my colleagues, do not tell me you are worried about small banks and consumers and then push for a delay that will serve to provide $1 billion a month in more fees primarily to the largest banks in America.

A delay in this implementation would give Visa and MasterCard and the big banks a multibillion-dollar handout—have we heard this song before?—while leaving merchants and consumers worse off than they already are. I am not going to sit by and let the big banks and card companies get away with trying to kill this reform. They have been bailed out enough already.

I urge my colleagues in Congress: Do not bail out the big banks on Wall Street another time. Once in a political lifetime is enough for most of us.

I am standing with the consumers and merchants on this issue. I hope my colleagues will join me and find it is a good place to stand.

I yield the floor.

ADJOURNMENT UNTIL MONDAY, MARCH 14, 2011, AT 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 2 p.m. on Monday, March 14, 2011.

Thereupon, the Senate, at 5:35 p.m., adjourned until Monday, March 14, 2011, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

NATIONAL SECURITY EDUCATION BOARD

CHRISTOPHER B. HOWARD, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS, VICE KIRON KANINA SKINNER, TERM EXPIRED.

INTERNATIONAL MONETARY FUND

BEN S. BERNANKE, OF NEW JERSEY, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS. (REAPPOINTMENT)

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

DERETH BRITT GLANCE, OF NEW YORK, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, VICE IRENE B. BROOKS.

RICHARD M. MOY, OF MONTANA, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, VICE SAMUEL W. SPECK.

DEPARTMENT OF STATE

DANIEL BENJAMIN SHAPIRO, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be lieutenant (junior grade)

ZACHARY P. CRESS

CONFIRMATIONS

Executive nominations confirmed by the Senate March 10, 2011:

THE JUDICIARY

MAX OLIVER COGBURN, JR., OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA.

DEPARTMENT OF JUSTICE

TIMOTHY J. FEIGHERY, OF NEW YORK, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2012.