

At this moment, this total unwillingness to cut a single dollar from this bill is simply indefensible.

Just as troubling as the lack of restraint is a provision to literally shut down the DC Opportunity Scholarship Program which helped 1,700 students in the District of Columbia attend private schools last year at a fraction of what the city spends per pupil on public education. This program is clearly—clearly—popular among parents, since the city receives four applications for every available slot. Yet our friends on the other side will reject an amendment to preserve it.

On this issue, it is incredibly difficult to see how the majority can match their rhetoric with their actions. It should be unthinkable to terminate a program aimed at giving inner-city students the same educational opportunities that middle-class or affluent students enjoy.

Republicans tried to improve the omnibus with commonsense proposals that Americans support. The junior Senator from Arizona proposed an amendment that would have required the Secretary of State to certify that none of the funds made available for reconstruction efforts in Gaza are diverted either to Hamas or to entities controlled by Hamas. The junior Senator from South Dakota offered an amendment that prohibits the use of funds for any effort aimed at reviving the fairness doctrine, which limited free speech until its repeal more than two decades ago. Unfortunately, the majority said no.

In the midst of an economic crisis, a government has an obligation to show restraint. But as our friends turned aside every effort to trim back spending on the omnibus bill, it became clear that many in Congress still think Government operates in a different realm of reality than the rest of the country. Apparently, they do not think the Federal Government is obligated to make any of the tough decisions that millions of American families are making every single day.

Spending and borrowing at this dizzying rate is simply unacceptable. We need to be thinking about the long-term sustainability of our economy and creating jobs and opportunity for future generations. We should have started on this bill by insisting that it include some of the hard choices on spending that Americans themselves are making every single day.

I yield the floor.

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

OMNIBUS APPROPRIATIONS

Mr. REID. Madam President, I direct everyone's attention to today's column in the New York Times written by David Brooks. David Brooks is a Republican columnist, conservative, but basically he is saying that the Republicans are opposing everything. It does

not matter what it is, they are opposing it. And I think that is basically what we have here today with Senator McConnell. I mean, I cannot imagine how he could stand before this body, after having talked favorably of this bill in the past—and his statements have been read in the RECORD on previous occasions about how much he believed in this omnibus bill. In fact, he said—and I am paraphrasing—that there had been input by Democrats and Republicans, it had been fully vetted. But suddenly—using the David Brooks theory of Government—they are opposed to everything.

It is not helping the Republicans around this country. You have to be in favor of something. And for my friend, the senior Senator from Kentucky, to stand before this body and lament the deficits—“this spending that has to stop”—where were they during the 8 years of the red ink of George Bush? The biggest deficits in the history of this country are all held by George Bush: the unending spending on the Iraq war, not putting that in the budget in an effort to hide it from the American people—how much it cost—the tax cuts that were never big enough for the Republicans that ran us into this deep hole President Obama has inherited.

So everyone should read David Brooks. Let's have the Republicans start being in favor of something. That would be the right thing to do.

The fairness doctrine. What a ghost that does not exist. None of us wants to go back to the way it was before. It is an issue they brought up to talk about. No one wants to reestablish the fairness doctrine, Democrats or Republicans.

I know the State of Nevada is proud in determining what the education standards should be in the State of Nevada. I think we should do more in the State of Nevada. I am not happy about where our educational levels are, the spending levels in the State of Nevada. But Nevada determines that, and that is the way it is around the other 49 States, that it is a prerogative Governors have protected for many generations—that the Federal Government should stay out of local education. But when it comes to the District of Columbia, they do not count, I guess. So how would the rest of the States feel if we suddenly determined what was going to happen in those States as it related to vouchers, school choice, charter schools?

So I hope we can get these amendments out of the way and pass this legislation and go on to other things. I am sorry I had to file cloture on three nominations. I hope we do not have to take those votes because it goes in opposition to what the Republicans always told us: What right does the party in the minority have to hold up Presidential nominations or judges? We are finding that is happening. I hope we can work our way through that.

This legislation is important. It is important because it takes care of

these Government agencies that had been, over the Bush years, so underfunded, underresourced that we had—because of the 8 years of neglect—to increase spending for these Government agencies so they can do their job. I met yesterday with new Secretary of the Interior Ken Salazar. He is lamenting how the parks in our country are in such bad shape, terrible shape. The Mall out here, because the Republicans complained about the money for the Mall—there was a major feature on all public radio stations yesterday about the Mall, what terrible shape this Mall is in. It is used. It is an American landmark. But they do not want money spent on that.

When I read David Brooks this morning, I thought: Gee whiz, he has an understanding of what is wrong with the Republican Party. And no one more than a Republican can probably say it as strongly as he did. David Brooks—I have told him how on a number of occasions I disagree with his end line, but his reasoning is always brilliant, as it was today.

RESERVATION OF LEADER TIME

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

OMNIBUS APPROPRIATIONS ACT, 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1105 which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 1105) making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

Pending:

Ensign amendment No. 615, to strike the restrictions on the District of Columbia Opportunity Scholarship Program.

Kyl amendment No. 629, to provide that no funds may be used to resettle Palestinians from Gaza into the United States.

Bunning amendment No. 665, to require the Secretary of State to issue a report on investments by foreign companies in the energy sector of Iran.

Sessions amendment No. 604, to extend the pilot program for employment eligibility confirmation established in title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 for 6 years.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

AMENDMENT NO. 673

Mr. CORNYN. Madam President, I ask unanimous consent to set aside any pending amendment and call up Cornyn amendment No. 673 and ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 673.

Mr. CORNYN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prevent collection of excessive contingency legal fees by lawyers hired to protect the public interest)

On page 366, line 24, strike "rule." and insert the following: "rule, provided that an attorney general of a State may not enter into a contingency fee agreement for legal or expert witness services relating to a civil action under this section. For purposes of this paragraph, the term 'contingency fee agreement' means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained."

Mr. CORNYN. Madam President, I rise to offer an amendment 673 to the Omnibus appropriations bill. As a former State attorney general, I am very concerned that the current bill lets State attorneys general outsource their responsibilities on behalf of their citizens to enforce the Truth in Lending Act. This is a very important piece of legislation that was passed in 1968 to protect consumers in credit transactions by requiring clear disclosure of key terms of the lending agreement at all costs. As I said, this is an important piece of legislation. However, the current provision in the bill allows the attorney general, the elected representative of the people—the people's lawyer—to basically hire trial lawyers on a contingency fee arrangement. Thus, the litigation that might follow under this piece of legislation would benefit not just the citizens, not just the public, not just the taxpayers but trial lawyers too. I don't believe that should be the intent of Congress.

Specifically, this amendment clarifies that State attorneys general may not outsource these lawsuits to outside lawyers or expert witnesses on a contingency fee basis. As we all know, contingency fee means you get a piece of the pie if you win. This would not prohibit attorneys general from hiring lawyers on a more reasonable basis, such as a set fee or an hourly rate, but the new causes of action created by this bill could add up to significant money damages, and this money, as I indicated, should be paid to the people, not to private lawyers.

Both Democrats and Republicans have expressed some concerns about the enforcement of this Truth in Lending Act by State attorneys general. Senator DODD, the distinguished Senator from Connecticut, said that "giving such broad authority to State attorneys general would be a departure from the current regulatory regime," and he is right.

This amendment prevents the authority to enforce the Truth in Lending Act from being further disbursed by State attorneys general delegating it to trial lawyers on a contingency fee

basis. Without this amendment, it is likely that plaintiffs' lawyers will develop class action lawsuits, then go to their State attorney general proposing to pursue these cases on a contingency fee basis, perhaps reaping millions of dollars in attorneys' fees awards.

My colleagues have expressed concerns the bill would increase the number of authorized enforcers from 1 to 51. I would submit that unless this amendment is adopted, we are effectively increasing the number of authorized enforcers of this legislation from 1 to 5,100 or more.

Hiring outside counsel on a contingency fee basis, unfortunately, as we have learned through hard experience, can lead to other problems, including the appearance of corruption or outright corruption. For example, my predecessor in office, the Texas attorney general, entered into contingency fee agreements with outside lawyers in the tobacco litigation, which was then being pursued across the country. These lawyers ended up making roughly \$3 billion in attorneys fees through contingency fee provisions that my predecessor in office entered into. Unfortunately, my predecessor also falsified records in an attempt to funnel some of that money to a friend, and he paid the price. He went to the Federal penitentiary.

This is not just a problem in my State; this is a national problem as well. Last year, the Wall Street Journal reported and editorialized about the appearance of corruption in Mississippi, where the State attorney general had retained as many as 27 law firms as outside counsel to pursue at least 20 different State lawsuits over a 5-year period. In 2007 alone, the attorney general received almost \$800,000 in political contributions from those same lawyers and law firms and, thus, the appearance of conflict of interest, if not an outright conflict, was created.

This kind of conflict of interest has no place in the attorney general's job, which is to protect the legal interests of the people of his or her State. Amendment No. 673 would ensure that State attorneys general either do the work themselves in enforcing this law or hire an outside lawyer at a reasonable, competitive hourly rate or flat rate; no windfall attorneys' fees for hitting the long ball over the fence.

When Federal agencies bring suits to enforce the Truth in Lending Act, they are barred from hiring outside counsel on a contingency fee basis. All I am suggesting is that this same rule should apply to the State attorneys general who are now authorized enforcers under the law. Particularly at this time in our Nation's economic history, it should hardly be one of Congress's priorities to increase the number of lawsuits. We cannot sue our way to recovery. Unless amendment 673 is adopted, the bill would give trial lawyers a share of the public's money and will disrupt the Federal credit regulatory regime and, as I indicated a moment

ago, create dangerous incentives to corruption. I ask my colleagues to support amendment No. 673.

AMENDMENT NO. 674

Madam President, I have another amendment, Cornyn amendment No. 674, so I now ask unanimous consent to set aside temporarily my previous amendment and ask for the immediate consideration of amendment No. 674.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 674.

Mr. CORNYN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the use of funds to implement an Executive Order relating to employee notice of rights under Federal labor laws)

At the appropriate place in title I of division F, insert the following:

SEC. _____. No funds made available under this Act shall be used to implement the Executive Order dated January 30, 2009, entitled "Notification of Employee Rights Under Federal Labor Laws" to the extent that the implementation of such order is in conflict with Executive Order 13201, dated February 17, 2001.

Mr. CORNYN. Madam President, my second and final amendment to this Omnibus appropriations bill would help protect workers' paychecks and increase transparency, something we all heard our new President speak about just a few short weeks ago—I believe about 50 days ago now—when he said he believed increased transparency would increase accountability and help restore the public's confidence in their Government. This amendment is offered in that vein.

The U.S. Supreme Court, in *Communication Workers v. Beck*, said workers could not be forced to pay dues for purposes other than collective bargaining. That means workers have the right to keep more of their money rather than support political action committees, lobbying and gifts, things they may not even agree with.

We know every dollar counts in this economy, and many workers object to scenes such as the one we saw last week in Miami. There, the AFL-CIO held a meeting at the Fontainebleau Resort, which describes itself as "the epicenter of style, fame, and glamour." Now, if workers don't want to support that kind of extravagance based on their union dues, they shouldn't have to. And, frankly, who can blame them?

The Bush administration issued an Executive order that required employers to post signs at the workplace that informed workers of these rights regarding union dues. These notices are similar to those that inform workers of

their rights regarding family and medical leave, workplace safety, equal employment opportunity, and other rights they have under the law.

Now, this chart shows what the notice says. It says:

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

It goes on to say:

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment.

Meaning your payment of your union dues.

If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to appropriate reduction in future payments. For further information concerning your rights, you may wish to contact the National Labor Relations Board, either at one of its regional offices or at the following address.

The Supreme Court has said when a worker pays their dues, they cannot be forced to financially support things they don't agree with, whether it is extravagant spending at the Fontainebleau Resort or perhaps even a political speech where a union might use those dues to help finance a campaign against a political candidate or perhaps an incumbent.

President Obama, unfortunately, has signed an Executive order that, among other things, rescinds the requirement to inform workers of their rights regarding union dues. This Executive order, contrary to what we heard a few short weeks ago, actually reduces transparency in the workplace, and it places unnecessary limits on the information available to help workers make informed decisions about their union dues.

Amendment No. 674 would prohibit Federal funds from being used to implement that part of President Obama's Executive order related to this notice to workers. It would have no other effect on the Executive order, other than to reinstate this notice to workers that you don't have to join a union; and, No. 2, if you do not join a union, you cannot be forced to finance points of view or activities you disagree with, and you can assure that your money can only be used for legitimate collective bargaining contract administration and grievance adjustment.

I urge my colleagues to support amendment No. 674.

I yield the floor and 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. PRYOR. Madam 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.

AMENDMENT NO. 673

Mr. PRYOR. Madam President, I rise today to speak against an amendment filed by Senator CORNYN of Texas. The amendment deals with the ability of State attorneys general to hire outside counsel for various lawsuits they may be pursuing. I wish to talk about that amendment for a few minutes and tell my colleagues how that works in the real world.

One of the things we did when I was in the State attorney general's office is we looked at several cases on which we considered hiring outside counsel because the State did not have the resources to front the costs of the litigation. We ended up not retaining any outside counsel. We did not pursue those matters. Nonetheless, the fact that we had the ability to look at that option is very important for States. It is also very important for State sovereignty. In fact, I am not convinced—I have to look at the U.S. Constitution—I am not convinced that the U.S. Congress can limit a State's ability to file a lawsuit. My sense is that the States have that authority. They can do what they want to do. They are sovereign. My guess is that this amendment may be unconstitutional. I have not yet done a thorough analysis of it, but that is my suspicion.

I say this too. One of the points my colleagues need to remember about the State AGs is that most of them—I think over 42, 43, 44 State attorneys general are just like us: they are elected by the people. There are a few appointed one way or another—by a supreme court, a legislature, a Governor. That happens State to State, but the vast majority of them are elected just as we are. They have accountability. They are responsible to the people who elected them. There is that check and balance that already exists. I am not sure about other States because I don't know how their outside counsel statutes work, but in our State, in order for us to hire outside counsel, we have to go to the legislature and get their approval, and we also have to get the Governor to sign off on it. Again, States are going to be different on point.

Again, in Arkansas, we have another check and balance beyond just that the State attorney general is elected and is accountable to the people. There is also a check and balance between the State attorney general's office and the legislature and the Governor. Everyone has an interest to make sure this is done right and done well. It works very well in our State. If we had a lot of State attorneys general here, they would

agree that it worked very well for them as well.

Another point I wish to address in the Cornyn amendment is the underlying premise of this amendment. My understanding is it is based on some language dealing with the Federal Trade Commission in the omnibus bill we are discussing today and will vote on later today. We have to recognize that the Federal Government does not always have the manpower or the attention span or the ability, for one reason or another, to go after some bad actors out there. The States do not always have that manpower, attention span, or ability either, but the fact that the States can help augment and supplement the enforcement of the Federal Trade Commission and other Federal agencies can be very good for the people of this country.

Again, we need to allow the States the flexibility to be on the team. They need to be on the team because these folks—again, most of them—are elected by their people. Most of them have some sort of consumer protection function or some sort of public safety function. Most of them have an office that is ready, willing, and able to make sure their State's citizenry is protected and taken care of sometimes when the Federal Government cannot do it or is not able to do it or is not willing to do it. The State AG enforcement can be a very important part of that protection.

With regard to the narrow issue of whether States can hire outside counsel, let me speak about that point for a moment.

When I was elected to the State attorney general's office in Arkansas in 1998—we all remember the tobacco case, the big, mammoth tobacco case. I was elected and within weeks it settled. By the time I became attorney general, sworn into office, the case was over. It was done, and we were in the enforcement phase. The case itself was behind us.

One of the first things I had to do—this literally happened on the first day I was in office—is I had to undo an outside counsel agreement my predecessor had entered into. Here, again, not only have I never entered into an outside counsel agreement as an attorney general, but I undid one my predecessor tried to enter into. That puts me in a different position than most people because I had been around this issue a lot during my years in the attorney general's office.

The other point we need to keep in mind about the tobacco case—and this is just true for how State AGs work—one of the reasons, and I would say the primary reason, that the States brought that case in the first place is because Washington failed to act. Washington failed to act. We may remember those days in the nineties. President Clinton wanted to do something with the tobacco companies. He wanted to have a global settlement of these claims. I was not around then. A lot of my colleagues were around then

and remember the details of those discussions and the bill that came through. It got bogged down in the Congress. In fact, I remember listening to the news media saying it came like a Christmas tree—everybody was adding an ornament as it went through the process. It never passed. It got burdened down, and it never passed and never got to the President's desk for his signature. So when Congress did not act, the States did.

We have seen that in other context as well. When there is a void, when there is a vacuum and the Federal Government is not out there trying to take care of an issue, whatever it may be, oftentimes the States want action. It could be the Governors, it could be the State AGs, it could be the State legislatures, but—what is the old saying about power abhors a vacuum? That is what happens in this country. Again, we need to keep the States' flexibility in bringing lawsuits if they need to do that.

The other point we need to keep in mind is that a lot of today's litigation, a lot of the litigation the States are either involved in or are looking at is very complex and very expensive. I personally believe that an outside counsel contract can make a lot of sense. Again, we looked at these contracts when I was in the attorney general's office. We never did one, but we looked at them very closely because there are cases where it is very complex, it is very expensive, and you can structure an agreement with an outside counsel. It is not a get-rich-quick scheme by the outside lawyers, by the plaintiffs' attorneys, but it really is good for public policy, and if it is done right and done well, the public interest is very much served.

I think we should look at the Cornyn amendment. With all due respect to my colleague and friend from Texas, I think we should vote against the Cornyn amendment. We should not limit the States' ability to hire outside counsel if they feel they need to. Let the States make that decision. As I mentioned before, constitutionally, I am not sure we have the authority to limit the States anyway.

In the end, the interest of our people back home would be disserved if we adopted this amendment because what we would do would be to take some of the authority, some of the ability away from the State to protect its citizenry. As this amendment is voted on—apparently later this afternoon; I don't know exactly when it will be voted on—as it is voted on, I strongly urge my colleagues to vote no on the Cornyn amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. VITTER. Madam President, I take the floor to give a little background, important background on the amendment I will call up later today. That Vitter amendment would do away with the system that is now in place

under the law whereby Members of Congress get automatic pay increases annually without any open debate and without any open, clear rollcall vote.

Madam President, I have to say, Americans—certainly Louisianans in my State—are frustrated about a lot that is going on in Washington and in Congress. They are frustrated about the direction of the country, about runaway spending, about bailouts, but they are also frustrated with how we in Congress often seem to do our business. They are not frustrated so much with disagreement. People can have legitimate disagreements, vast differences in points of view and philosophy and approaches to issues. What they are most frustrated about is pure partisanship for partisanship's sake, political games, and a cynical approach to doing what should be the people's business in the Halls of Congress.

Unfortunately, a lot of voters and citizens in Louisiana and across the country are going to view some of the maneuvering and some of the political strategizing over attempts to defeat my amendment in that light, and they are certainly going to consider it more of the same. What am I talking about? Well, we have a big omnibus spending bill on the floor of the Senate, and last week the majority leader took great pains to say—including from his spot on the floor several times—we are going to have an open amendment process; that the floor is open for business, it is open for amendments. He invited Members to come on down. We will consider them. We are moving forward and taking care of amendments, having votes, and getting back to the proper procedure of the Senate.

I was excited to hear that because I had an amendment I very much wanted to call up for debate and a vote. The problem is, when I tried to do that, both through staff and individually, we were blocked every step of the way. At every turn, my amendment would never be put in order. It was never allowed to be called up, and I was never allowed to get that vote on this pay raise amendment.

Thursday night, that changed, and it changed for one simple reason: The majority leader needed to cancel a vote. He needed 60 votes for cloture. He didn't have the votes, as he explained from his podium. To cancel that vote, under the rules of the Senate, he needed unanimous consent—the consent of each and every Member of this body. Well, I took the opportunity—after a week of being frustrated and blocked and hemmed in at every turn from getting a vote on my amendment—to say very simply, in a straightforward way: I will be happy to grant that unanimous consent request with regard to my role in this if—and only if—I will finally be guaranteed a vote on my amendment. The majority leader had to agree, and he did agree.

So here we are today, the following week, debating the Vitter pay raise amendment to stop pay raises on auto-

pilot. This will finally lead to a vote. But as soon as that vote was scheduled, a sort of funny thing happened. The next day the majority leader introduced his own bill, coauthored by the entire Democratic leadership, which would do the same thing. Now, if I thought I had gained that many enthusiastic converts to the cause, I would be excited. But even though I was born at night, I wasn't born last night. I know—and every observer to the process knows—something else is going on. The something else is simple: The majority leader filed his own bill regarding automatic pay raises simply to be able to point to it and say: I am offering this bill, we can push this forward through this vehicle, and therefore you must vote against the Vitter amendment to the omnibus spending bill.

Again, I think the American people are going to be frustrated by the maneuvering and the cynical political games. I think they want a full, straightforward open debate. I think they want to hear where people are coming from. If folks support this idea of changing and doing away with automatic pay raises—pay raises on autopilot and no debate, no votes, they just happen every year—then I think they are going to want to see those Members vote for the Vitter amendment on the floor of this body today.

Quite frankly, I think it is a cynical maneuver to point to a bill that will never pass, that is controlled by individuals who don't want the measure to pass, in order to defeat an amendment that can pass and that can be the vehicle for this important change and reform. So I would encourage all Members to support the Vitter amendment, to support the idea in the form in which it can actually be passed into law.

This is a must-pass bill. This is an appropriations bill—something to fund this part of the Government. Something has to pass within the next several days. In this bill—in the original version of this bill—the pay raise issue is already there. It is a perfectly germane and natural amendment to the bill and agrees with my provision to do away with automatic pay raises. Nothing could be more natural than to debate the issue on this bill, to offer this amendment on this bill, and it is the legitimate and appropriate and effective way if we actually do want to pass this into law.

The way to never pass it into law is to have a stand-alone straw man; to point to a separate bill that will never be passed, certainly in the House.

Now, I expect what will happen is, the majority leader will not only point to this stand-alone bill, but he will actually ask unanimous consent that it be passed through the Senate and sent down the road to the House in the process. Well, that would be very promising if there was any hope whatsoever that the Speaker of the House and the House leadership would take up the matter and put it on the House floor.

So I would ask the majority leader and the Speaker of the House if they have had those discussions. Is there a commitment to putting any stand-alone bill passed through the Senate on the House floor for a vote in the very near future?

If there is that commitment, I would love to hear that expressed publicly, clearly, and in a straightforward way, and then that would rebut my argument that this is all a cynical, political game. I am afraid we are not going to hear those assurances. We are not going to hear that public commitment because I am afraid what is swirling around my amendment is a cynical political game. Let us treat the people's business the way it should be treated. Let us come to the floor, let us express our opinions. If we have legitimate differences of opinion, let us express them and let us debate them. But let us do it in that straightforward way and then let us have a vote on the Vitter amendment—the amendment that would do away with automatic pay raises—which is the true effective way to pass this reform into law on a must-pass appropriations bill.

I urge all my colleagues to come to the floor in that spirit. I urge all my colleagues to express themselves and wherever they are coming from in that straightforward way, in that straightforward spirit and not to drop in stand-alone bills the day after I was finally able to secure a vote on this matter, particularly when this proposal—thanks to my good friend, Senator RUSS FEINGOLD—has been around at least since the year 2000, 9 years. Neither the majority leader nor any of his Democratic leadership who are cosponsors to his brand new bill have ever reached out to Senator FEINGOLD to express support and join him in supporting his bill, which, as I say, has been around since the year 2000.

I am now happy to yield to the distinguished Senator from Iowa.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

AMENDMENT NO. 621

Mr. GRASSLEY. Madam President, I rise to speak on another amendment. I spoke on Senator VITTER's amendment yesterday, and I spoke in support of it. I will now speak on the Sessions amendment.

I rise in support of the Sessions amendment to extend the E-Verify Program for a period of 5 years. The E-Verify Program is an effective Web-based tool that provides employers with a process for the purpose of verifying the Social Security numbers and, at the same time, for the main purpose of determining the legal status of newly hired employees.

As my colleagues know, it is unlawful for employers to knowingly hire or employ aliens not eligible to work in the United States. Under current law, if the documents provided by an employee reasonably appear on their face to be genuine, then the employer has met the obligation to review the work-

er's documents. Unfortunately, counterfeit documents and stolen identities have made a mockery of this law. But with the E-Verify Program, employers can electronically verify a new hire's employment authorization through the Social Security Administration and, if necessary, follow it up with the Department of Homeland Security databases.

E-Verify has been an extremely successful program for employers who are seeking to comply with the law. The program is voluntary and free for all employers. Right now, over 100,000 employers have signed up for the program, and, in addition, each week more than 2,000 employers sign up. E-Verify has a proven track record—more than 5 million queries by employers were made last year and, of those, 96.1 percent were verified automatically.

The small percentage of applicants who receive a tentative nonconfirmation must sort out their records with the Social Security Administration. I would think if the Social Security Administration has bad information about you, you would want to clear that up for sure anyway. Many times this is a simple misunderstanding with the Social Security Administration or a case in which records were not updated. In the event a person receives a tentative nonconfirmation after his employment application, that person can still continue to work and cannot be fired.

The Sessions amendment would extend the E-Verify Program for 5 more years. Now, frankly, I would like to see more reforms to the E-Verify Program. For example, I would like to make E-Verify mandatory for all businesses. I would like employers to check all their employees through E-Verify, not just new hires. I would also like to see the program made a permanent provision in our immigration laws. But for now, I am happy to support this first baby step in extending E-Verify for 5 years.

There is a bottom line to everything we do around here, and the bottom line is that this amendment is a jobs amendment. Our economy is on the skids. Americans are losing their jobs. The E-Verify Program will help stimulate the economy by preserving jobs for a legal workforce. It will help root out illegal workers who are taking jobs from Americans. We need the E-Verify Program to encourage employers to use the system to prevent them from hiring foreign labor that has come here illegally.

I wish to make clear this has nothing to do with whether we have people coming to this country. It has nothing to do with whether we have people coming to this country to work. It only has to do with laws being followed—following the rule of law—to make sure people are working here legally and are conforming with our laws. That is all this is about, and E-Verify is a process—not mandatory, but a process to help people who are employers to verify whether the people who apply

for the jobs are here legally and are registered with our Social Security system in a legal way.

I urge my colleagues, then, to support the Sessions amendment. Of course I appreciate very much the leadership of Senator SESSIONS in this E-Verify Program extension for 5 years, which is what the amendment calls for.

I yield the floor and I don't see anybody yet ready to speak so I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 621

Mr. GRASSLEY. Madam President, for Senator VITTER, I ask his amendment be called up. It is amendment No. 621.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY), for Mr. VITTER, for himself, Mr. FEINGOLD, Mr. GRASSLEY, and Mr. ENSIGN, proposes an amendment numbered 621.

Mr. GRASSLEY. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To repeal the provision of law that provides automatic pay adjustments for Members of Congress)

At the appropriate place, insert the following:

SEC. ____ . **ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.**

(a) IN GENERAL.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 601(a)(1) of such Act is amended—

(1) by striking “(a)(1)” and inserting “(a)”;

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking “as adjusted by paragraph (2) of this subsection” and inserting “adjusted as provided by law”.

(c) EFFECTIVE DATE.—This section shall take effect on December 31, 2010.

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

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

Mr. GREGG. Madam President, I rise today to speak a little bit about where we are in our economic situation in

this country and specifically as it is affected by the President's budget as he has brought it forward. I want to begin by acknowledging my respect and appreciation for what this administration has tried to do in the area of stabilizing the financial industry of this country. They, in conjunction with the Chairman of the Federal Reserve, Treasury Secretary Geithner, and Larry Summers, the Special Adviser to the President, along, obviously, with the input of Chairman Volcker, have put together a very comprehensive effort to try to use the strengths of the Federal Reserve and the Federal Government to basically inject liquidity into the system and put stability into the financial system of the country.

There has been a tremendous amount of commentary on this and much of it has reflected a lack of confidence in the initiatives that have been brought forward by this administration because, in many instances, they have not been as specific as they might have been. But the general thrust of what the administration has done in this area has been positive and I believe we are starting to see it work. The initial TARP dollars, which were put in by the prior administration, did stabilize the banking industry during a critical time. That has been followed on with additional TARP dollars from this administration, followed on by the initiatives from the Fed in the area of TALF, which basically is potentially over \$1 trillion of support for new loans in the area of consumer credit and maybe commercial real estate; trying to do something in the mortgage area—initiatives have begun there using the FDIC and also the Treasury and the Fed again; in the area of basically underwriting the stability of major banking systems in the country, significant efforts have been made; and we are now hearing there is going to be an additional effort made to take toxic loans off the balance sheets of the banks using the leverage from the private sector.

All this has been, in my opinion, the right way to go. I didn't support the stimulus package because I thought it was unfocused and I did not think the dollars were used as effectively as they might. I wanted to see the dollars in the real estate area. But as a very practical statement, on balance the efforts of this administration to try to stabilize the financial industry, because stabilizing the financial industry is critical to getting the economy going, have been positive in my opinion. There is still a long way to go and there are more specifics that need to come and I guess more of that is going to come this week.

But that initiative to try to get this economy going and try to address the issue of people's concerns about their jobs and the value of their homes and their ability to live their lives in a constructive way in the face of severe financial distress which is being caused by this recession, stands in juxtaposi-

tion to this budget they have sent up. It is as if they have a ying and yang personality down there at the White House because they sent us up a whole group of ideas in the area of stabilizing the financial industries and trying to get the economy going with their stimulus package, the purpose of which is to lift the economy using the Federal Government.

Then they sent us up a budget which essentially creates a massive expansion in spending, a massive expansion in taxation, a massive expansion in borrowing, not only in the short run when you might be able to justify more spending, when you can justify more spending and borrowing, but as far as the eye can see with the practical effect of having a dampening effect, throwing a wet blanket on top of this country's productivity capabilities and this country's ability to be moving forward as an entrepreneurial society.

Look at the budget in specifics. The budget, in the short run, spikes the deficit dramatically. I am not going to argue with that. That may be necessary—maybe not at the levels they are doing it, but it may be necessary. It is necessary in order to put liquidity into the market, put liquidity into the American economy.

But then it continues to expand the size of Government; 28 percent of GDP will be the size of the Government this year. That is massive compared to our historical size of the Government as part of the GDP. That has got to come down. It does come down, but it does not come down all that much. By the fifth, sixth, seventh year, we still have Government spending that is 22, 23 percent of GDP. We have a deficit in the fifth year that is 3 to 4 percent of GDP.

The debt of the Federal Government, the public debt, is doubled in 5 years under this budget. It is tripled in 10 years under this budget. Taxes are increased by \$1.4 trillion under this budget, \$1.4 trillion. What are those taxes used for? Not to reduce the deficit but to expand the size of the Government even further.

Health care is essentially put on a track toward nationalization. Educational loans are nationalized. Discretionary spending goes up by almost three-quarters of a trillion dollars. And there is absolutely no restraint in any accounts of any significance on the spending side of the ledger in this budget. So that by the time we get to the fourth and fifth year of this budget, rather than seeing the numbers come down to something that is manageable for our society, rather than seeing the debt-to-GDP ratio come down to what might be a manageable number, it remains at a very high level, 67 percent.

Historically, debt to GDP in this country has been about 40 percent. Those are numbers. What do they mean? Well, essentially, instead of having a traditionally strong industrialized society, where your debt is manageable at 40 percent of your GDP, you are heading toward a banana republic

society or country where your GDP-to-debt ratio is up around 70 percent. You cannot sustain that. Yet this budget presumes we are going to have a debt-to-GDP ratio of the banana republic type as far as the eye can see.

And the deficit? It is claimed that it is cut in half. Well, if you increase the deficit four times, and then you cut it in half, you do not gain very much. That is like taking four steps backward and only two steps forward. The practical effect of that is that we still end up with a deficit 4 or 5 years out, well after we are past this recessionary period, hopefully. I am sure we will be past it by then because we are a resilient nation. A deficit which is still way above the historical norm for this country, a \$712 billion deficit is projected by the year 2019 under this budget, 3 to 4 percent of GDP. That is not sustainable. What is the practical effect of this?

Well, the practical effect is that we give our kids a country they cannot afford. We put on them a debt burden which basically stymies their ability to succeed and prosper.

In addition to this, you have got to look at the policies underlying this budget. What are the policies that are driving this massive expansion of Government in this massive expansion of debt? Well, they are basically policies which say, we are going to take the Government and we are going to explode its role relative to the private sector activities.

There is a proposal in this budget, as I mentioned earlier, to nationalize the student loan program. That is certainly an unnecessary act. We had a very vibrant private sector student loan program and a vibrant public sector student loan program. There is no reason we cannot have both. That is no longer acceptable. We are going to nationalize the student loan program.

There is a \$636 billion place holder in this budget for the expansion of health care. They say it is a downpayment. Well, if it is a downpayment, we are talking about health care expenditures exceeding \$1 trillion under this budget, growth in health care costs. Well, health care already absorbs 17 percent of the gross national product. That is about 5 percent higher than any other industrialized nation. It is not that we do not put enough money in our health care system, it is that we do not use it very well. And to increase the dollars going into health care by those numbers means what you are proposing is essentially for the Government to take over the entire health care system at some point in the future—another great expansion in the size of Government.

Then you have got this expansion on the discretionary side of the account. Every discretionary program expanding, except for defense, where they play a gimmick for the purposes of claiming budgetary savings that do not even exist on spending that will not occur.

So the goal of this budget is not to contain or to slow the rate of growth of

Government in the outyears after we are past this recession, it is rather to explode the size of Government as we move out of this recession, and put in place a government that continues to grow at a rate which the economy cannot afford and which obviously our children cannot afford.

How is this paid for, this dramatic expansion of Government? Well, most of it is borrowed, borrowed money. But some of it comes out of taxes. There are major new taxes proposed. We have all heard about the taxes on the wealthy. Let me point out that essentially what is being proposed here is that if you make more than \$250,000, your income is going to be nationalized. Well, there are a lot of wealthy people who make more than \$250,000, but there are also a lot of small businesses in this country that make \$250,000.

That is where jobs come from in this country—the person running the local restaurant, the person running the local garage, the person who started a software company, the person who has initiated a new product, a new catalog product, maybe, selling something. All of these are small businesses, and they are across this Nation, and they are what create jobs. When you say to those folks, well, we are going to tax away whatever you make above a certain amount, \$250,000, you are saying to them they do not have the assets to reinvest in their small businesses. You are basically going to create a huge disincentive. This creates a huge disincentive for small businesses to expand and for people to be added, for employees to be added to their businesses. It throws a wet blanket on the expansion of small business.

There is another tax in here that is not talked about too much. They call it a carbon tax. This is a massive new tax on everybody's electric bill. If you described it fairly, it should be described as a national sales tax on electricity. If you use electricity for anything, something in your home, if you use energy basically for anything—and almost every American does; I cannot think of anyone who does not—you are going to find yourself hit with a new tax, this carbon tax, this national sales tax on energy.

And what does it amount to? It is not a small sum. It is scored in this budget. It is understated in this budget. It is scored at, I think, \$70 billion a year or something like that. That is still a lot of money, by the way. But it is understated. According to the MIT study and according to the numbers which were being used last year when this was being discussed, the actual number is closer to \$300 billion, \$300 billion in a brandnew tax burden on the American consumer.

And what is this tax used for? Well, it is used, in large part, for walking-around money for various constituencies who have an interest in getting money from the Federal Government. It is not used to contain the Federal

Government or to reduce its size by reducing the deficit. A large percentage of these tax revenues are going to be added to various initiatives around here which are the projects of Members—worthwhile, I am sure.

But it is pretty hard to justify hitting Americans with a brandnew national sales tax on their energy bills for the purposes of expanding this Government, which is already too large to begin with. And, remember, none of this expansion in the Government taxes takes into account the huge costs which we have coming at us which we do not know how we are going to handle. Those are the costs of the retirement of the baby boom generation, for as this baby boom generation continues to retire—it has begun retiring now—it is going to generate massive costs on our Government.

We know we have \$60 trillion of unfunded liability to pay for Medicare, Social Security, and Medicaid for the baby boom generation as it retires. And why is that? Why are there all of those trillions of dollars? Why is all of that money out there and obligated?

Because we have created a massive cost, and we have the largest generation in America retiring that is going to push that cost onto our children. We go from 35 million retired people to 70 million retired people, and most of that is going to occur by the end of this administration's term in office should the President be reelected.

So you would think that in this budget they would have said, well, we better start addressing that issue. We better start disciplining ourselves relative to how we are going to handle this massive increase in spending, which we know is coming at us—I call it a fiscal tsunami—as a result of the baby boom generation retiring. But, no, not one word in this budget about containing or slowing down or in any way addressing the issue of entitlement spending as a result of retirement of the baby boom generation.

The practical effect is there is an elephant in the room that we know we are going to have to address relative to cost that is not addressed, but at the same time the budget radically expands the size of Government, using resources that might have been used to address entitlement reform.

It is a budget which, if you look at it, essentially says to the productive and entrepreneurial side of our Nation: We are going to tax you. We are going to regulate you. And we are going to create an atmosphere where we are going to crowd out your ability to borrow money because the Federal Government is going to borrow so much money.

It is simply an attack on the entrepreneurial elements of our society, the people, the small business people who go out there and create jobs. That is why I said there is a conundrum here. On the one side this Government is proposing all sorts of initiatives, which I agree with, to try to float the econ-

omy using the liquidity of the Federal Government in a lot of different areas but primarily focused on getting stability back into our financial system and helping people who have mortgages that they cannot pay.

But, on the other side, you have this budget sent up here which is a clear and present attack essentially on the productive side of our ledger as a nation, while it expands radically the size of Government. So you can understand why the stock market and others are saying, whoa, what is happening here? Who am I to believe, the part of the administration which says we are going to try to get this economy going or the part of this administration that says, once we get it going, we are going to stuff it down with a major new tax burden and a dramatic expansion in Government?

So much more could have been accomplished in this budget than what has been proposed. If it had come forward with any reasonable ideas in the area of disciplining and managing the entitlement accounts, there would have been strong bipartisan support for that. But none were put on the table.

The opportunity to move forward in the area of Social Security was not taken. The opportunity to do something significant in the area of Medicare was certainly not taken in this budget, and the practical effect of that is, that if you are looking at this budget, and you are an investor from somewhere around the world buying American bonds—and, remember, most of our debt today is being bought by people outside the United States. They are basically funding our capacity as a nation to function—you are going to look at this budget and you are going to say, do I have confidence that the bonds I am buying are going to have the value that I am putting into them 5 or 10 years from now?

If I look at this budget, I am going to conclude that the American Government is not going to discipline itself, that it is going to continue to run a debt-to-GDP ratio that is not sustainable, and that, therefore, it is very likely that maybe my debt that I am buying from the United States, the Treasury bonds I am buying, are not going to be the value I am paying for them.

This budget not only stifles the entrepreneurial spirit of America in the outyears—and people looking 4 or 5 years down the road are not thinking that far now, but in October, this budget repeals many of the tax initiatives which create entrepreneurship and tax people at a heavier rate; it starts pretty soon here—at the same time it is putting at risk the value of our currency and the value of our debt. It is saying to the world: We are not going to discipline ourselves in the outyears.

When we raise taxes, which this administration is proposing—and that is what they said they would do—one presumes they would do what President Clinton did when he raised taxes. He

used it to try to reduce the deficit. With the help of a Republican Congress, which limited spending, we were able to accomplish that. This budget does not accomplish that. This budget takes \$1.4 trillion in new taxes and spends it on a massive expansion of the Federal Government in the area of health care and the way we finance student loans, all the different initiatives basically expanding Government's role.

The practical effect of that will be to weaken the dollar, our currency, and to cause people to question the value of our debt. That is serious. That is very serious for us as a nation.

I agree with those who say the market is confused by this administration. It is confused because, on one hand the administration is pursuing what is a necessary policy to get liquidity into the market and stabilize the financial industry, stabilize the housing industry, but, on the other hand, it has put forward a budget which is probably the largest expansion of Government in the history of the country or the largest proposed expansion of Government in the history of the country, unpaid for and, therefore, threatening the future of our children with debt they can't possibly afford.

As we move forward in this effort, I suggest a better course of action would be for this administration to come forward with some fiscal discipline. Why don't they propose some specific ideas which will address the impending fiscal tsunami? There are bipartisan initiatives in the Senate to do so. Senator CONRAD and I have proposed a procedure which would allow us to put in place a process which would lead to policy, which would lead to a vote, which would actually limit and make affordable a large percentage of the outyear cost of entitlement programs as we try to fund the retirement of the baby boom generation.

Take us up on that offer. It has very significant bipartisan support. Why not take up an initiative in the area of trying to get the deficit and the debt back to the prerecession period? When we went into the recession, the debt was 40 percent of GDP. The deficit was down to about 1.5 percent of GDP. Let's get back to those numbers. If we are going to raise revenues, let's use them to reduce the deficit, not to expand the size of Government.

These are initiatives that would get a lot of Republican support, certainly on the first point. There might even be some support on the second idea of getting the deficit down. I would certainly support lowering the debt. But the proposal as put forward now is confusing. Not only is it confusing, but if it were actually put in place, it would put our country in a very serious situation as our children try to lead their lives and move forward in a nation which gives them an opportunity for prosperity.

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

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

AMENDMENT NO. 629 WITHDRAWN

Mr. KYL. Madam President, yesterday I spoke to my pending amendment No. 629, an amendment that would have required an assurance that none of the funds in the underlying legislation would be used to resettle Gazans in the United States. There had been a flurry of news stories suggesting that an Executive order by the President might have that result.

In contacting the State Department, we have been assured that is not the case. As a result, I ask unanimous consent to withdraw the amendment and to have printed in the RECORD a letter from the U.S. Department of State, Michael Polt, Acting Assistant Secretary, addressed to me, dated March 9.

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

U.S. DEPARTMENT OF STATE,
Washington, DC, March 9, 2009.

Hon. JON KYL,
U.S. Senate.

DEAR SENATOR KYL: Thank you for your inquiry regarding Presidential Determination No. 2009-15, signed on January 27, 2009, which approved a \$20.3 million drawdown from the Emergency Refugee and Migration Assistance Fund (ERMA) to assist Palestinian refugees and conflict victims in Gaza. These funds will be used to provide humanitarian assistance to Palestinian refugees and conflict victims in Gaza. None of these funds will be used to resettle Gazans in the United States.

We appreciate your inquiry regarding this U.S. humanitarian program. If we can be of further assistance on this or any other issue, please do not hesitate to contact us.

Sincerely,

MICHAEL C. POLT,
Acting Assistant Secretary,
Legislative Affairs.

Mr. KYL. Madam President, I will read the two specific sentences from the letter that cleared up this matter. The letter says:

These funds will be used to provide humanitarian assistance to Palestinian refugees and conflict victims in Gaza. None of these funds will be used to resettle Gazans in the United States.

As a result of that assurance, the amendment is not necessary, and that is one less vote my colleagues have to take this afternoon.

I note 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.

AMENDMENT NO. 615

Mr. ENSIGN. Madam President, I wish to talk about my amendment dealing with the DC Opportunity

Scholarship Program. Unfortunately, if the current bill should pass, this program will end. There is specific language in the bill that says unless this program is reauthorized and the DC City Council approves it, 1,700 children will lose their opportunity scholarships that allow them to attend a private school in the District of Columbia. That is unfortunate, and that is why my amendment must be adopted.

When we take a close look at the data on DC schools, it is no wonder the DC opportunity scholarship parents are so vocal about keeping this program alive. Here in the District of Columbia, public schools spend, on average, over \$14,000 per year per student. The DC class size has one of the lowest student-teacher ratios in the country, 14 to 1. Yet reading scores continue to languish at or near the bottom in every national assessment. Recent data shows that 69 percent of fourth graders in the DC Public Schools are reading below basic levels as defined by the Department of Education. DC students in DC Public Schools ranked last in the Nation in both SAT and ACT scores. About 42 percent of DC students drop out of school.

Beyond the low performance in the classroom, DC schools are often violent and dangerous. A Federal government study found that roughly 12 percent of DC students were threatened or injured by someone possessing a weapon on school property during a recent school year. This percentage is well above the national average. Perhaps, it is because of these statistics, that President Obama chose to enroll both his daughters in a private school.

Let's see what his Secretary of Education said about the DC scholarship program:

I don't think it makes sense to take kids out of a school where they're happy and safe and satisfied and learning. I think those kids need to stay in their school.

Secretary Duncan was referring to the D.C. Opportunity Scholarship Program, the same program we are trying to save today.

Michelle Rhee, the Chancellor of DC city schools said:

I would never, as long as I am in this role, do anything to limit another parent's ability to make a choice for their child. Ever.

That is what she said.

DC Mayor Fenty said:

We should not disrupt the education of children who are presently enrolled in private schools through the DC Opportunity Scholarship Program.

Last Friday, Senator DURBIN, the senior Senator from Illinois, made some charges against this DC Opportunity Scholarship Program that I wish to address. Senator DURBIN claims the program doesn't work. He claimed the Department of Education study proves the DC Opportunity Scholarship Program doesn't work. What Senator DURBIN failed to mention were some of the fundamental flaws of the Department of Education study. First, the study fails to examine the performance

of students who actually took advantage of the scholarship and actually attended private school versus the performance of those who attended public schools. Instead, it compares the students who were just offered the scholarships to those in public schools. In fact, over a quarter of the students who were considered private school participants for purposes of this study did not even attend the private schools.

This study has many flaws and we could go through all of them. How can the program be considered not working yet there are 1,700 kids whose parents showed they are satisfied and that think their kids are getting a better education? The parents are happier, and they can sleep well knowing their kids are going to safer schools. I believe that if there were more than 1,700 scholarships available, there would be a lot more people who would be enrolled in the program because of the satisfaction of both the parents and the teachers.

According to the Heritage Foundation, 37 percent of the members in the House of Representatives and 45 percent of Senators send their children to private schools. That is almost four times the rate of the general population. The senior Senator from Illinois, Mr. DURBIN, stated on Friday that he and his wife sent their children to private Catholic schools. He said this was their choice, and it was a personal family decision. I respect Senator DURBIN's choice to send his own children to private schools, but why should the choice to send children to private schools be the right of only a privileged Senator's family or those who make a lot of money?

Keep in mind, the 1,700 children we are talking about come from families whose average income is less than \$23,000 a year. A good education is a civil right, and this should not be the exclusive purview of the rich or the well connected.

Before closing, I wish to highlight some of the stories of success in the DC Opportunity Scholarship Program so it can be clear who is losing out because of the Democrats' efforts to kill the Program. I wish to put some names with some of the faces and show how important this program truly is.

Sarah and James Parker attend the Sidwell Friends School in our Nation's Capital with President Obama's children. Here they are right here. Unlike the Obama girls, they could not afford this school without the \$7,500 voucher they received from the DC Opportunity Scholarship Program. Now, keep in mind, these two students are funded at half what it costs to send a child to DC Public Schools. Every time we take these students out of the public schools in Washington, the DC Public Schools save money. So why would we want to end this program? Plus the fact that these kids love going to school where they are going.

Now, Sanya Arias is a scholarship recipient who lives in Adams Morgan.

She said some of her friends she went to school with in middle school and who now attend public high school speak using profanities and aren't making the kind of progress she is making academically. This is Sanya, here. Sanya said in middle school she started slacking off and she would have probably followed her friends' path if she didn't receive the scholarship to attend private school. Sanya currently has a GPA of 3.95. She is vice president of her class, captain of the soccer team, a player on the lacrosse team, president of the International Club, and a peer minister. This is the type of student the Democrats are going to take out of a school that she loves so much.

Rashawn is 16 years of age and started school in 1996. His father had him tested and found he was 3 years behind his grade level. The scholarship program gave him the opportunity to attend Academia De La Recta Christian Day School where Rashawn has said: "I can now do my classwork with very little help" because of this scholarship.

Dominique, who is Rashawn's sister, is a 14-year-old girl who lives in Washington, DC. She is now attending the same school and, in Dominique's own words, she says: "I love my school, and I am working on my level and my grade."

Breanna Williams is a 9-year-old girl in the fourth grade. She loves her new school, St. Peter's, because she is getting all As and Bs. She loves to read and is doing that at a level above her grade. In addition, Breanna plays the clarinet in the school band and when Breanna grows up, she wants to be a translator who travels the world.

I would be remiss if I did not reintroduce you to Ronald Holassie. He is a 10th grader at Archbishop Carroll High School in the District, where he is thriving—running track, studying physics, mentoring middle-school students. Further, he has just been appointed as DC's deputy youth mayor. Ronald said that maintaining the DC opportunity scholarship is his chief legislative priority. Ending the program will send Ronald, who is just a sophomore, to Woodson High School, a failing school under the No Child Left Behind Act, for his senior year.

Individually and collectively, these students demonstrate just how important it is to continue the DC Opportunity Scholarship Program and just how wrong the program's opponents are to eliminate it for political purposes. We should continue this scholarship program and help students like the ones I just pointed out—help them to continue to succeed and to develop in our Nation's Capital. I ask President Obama and the Democrats to keep Sarah, James, Sanya, Rashawn, Dominique, Breanna, and Ronald in mind before deciding to kill the DC Opportunity Scholarship Program. I ask my colleagues to please join me in supporting this critical program.

Madam President, I will close with this. I met Ronald last week. I met him

and his folks. I met his little brother who is also in the program. I looked in their eyes and saw their heartfelt pleas to keep this program going. I challenge any member to look into their eyes and then vote against this program. We should be putting kids before special interest groups. Shouldn't our educational system be about kids? Shouldn't it be about their education and providing them the opportunities to compete in the 21st century?

I think the people who are against this program are afraid of this program for one reason—because it is actually working. This program is very popular. The senior Senator from Illinois sends his kids to private school. Parents choose to send their kids to private schools because they want better education for their kids.

Let's give these children a chance at a better education. Let's prove that it is working. Let's study the students and the program. Don't stop this program when it is still in its infancy. Let's decide how we need to measure it, prove it is working or not working. But I predict that at the end of the day, if we really follow these kids in an objective manner, we will show this program has great promise, and maybe we can even take it to other places in the country and help other low-income kids get a better chance at a better education.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I am glad I am here to speak in reference to the Ensign amendment. Senator ENSIGN mentioned my name several times during the course of that debate, which he is entitled to do on the floor of the Senate. I would like to respond.

Five years ago, we started a program in the District of Columbia. It was never tried before by the Federal Government. Here is the program. We said we would give to the parents of up to 2,000 students Federal money to pay for the tuition costs of sending their kids to private schools. It was called the DC Voucher Program. At the time—it was proposed 5 years ago—it was proposed as a pilot program. It basically said we are going to do this on an experimental basis to see whether it works, whether at the end of the day these kids going into private schools will turn out to be better and more successful students, and then at the end of the authorizing period Congress will make a decision whether to proceed forward with this program.

Sometime last year, I ended up with the responsibility of funding this program just as it was about to expire. It was going to expire this June, at the end of this school year. I said: I don't think that is fair. We have not done the evaluation we were supposed to do. We have not considered reauthorizing the program as we planned to do. And we do not want to leave 1,700 students and their families in suspense about their future. So, unlike the statement

made by the Senator from Nevada, I did not end the program in the bill. I think he knows I did not. Instead, we extended it an additional year beyond the authorization period. We said that we will cover the kids in this program for not only the school year we are in right now but the next school year, 2009 to 2010. I did not think it was fair for these kids to be uncertain about where they would be in the next school year while Congress did its work.

What has happened to this DC Voucher Program? Let me tell my colleagues what happened initially to the DC Voucher Program. I offered three amendments in the Senate Appropriations Committee to this program. Here is what they were, I say to Senator ENSIGN:

No. 1, I said that any DC voucher school teacher had to have a college degree. Is that a radical idea? Do you have any public schools in Nevada where the teachers do not have a college degree? We don't in Illinois. We put this up for a vote, and the people who were supporting the DC Voucher Program voted it down. They said: We can't require teachers in these private schools to have a college degree. Imagine that.

The second amendment I offered said the buildings that we will call DC voucher schools have to pass the Life Safety Code. They have to be safe buildings so that if there is a fire in the building, the kids will survive. I don't know of a single school in Nevada or Illinois that is not in a safe building, an inspected building. Do you know what happened to the amendment in the committee? They voted it down. They told me: Don't get in the way of creativity. We have these voucher schools that are very creative. The teachers may not have college degrees and the building may not be judged safe, but these are creative ideas. This could work, Senator, step aside.

The third thing I said was that it is only fair, since we are all critical of the current DC public schools and what is happening there, in most instances, that we have the same achievement test offered in the voucher school as in the DC public school so that at the end of a year or 2 years or 3 years, we can compare the results. Are the kids really doing better? It was voted down.

DURBIN, you are standing in the way of creativity. These are voucher schools. They don't need teachers with college degrees. They don't need to be in buildings that are inspected and safe. We don't need to have comparable tests. You are missing the point.

I guess I did miss the point. Do you know what happened when the General Accountability Office took a look at these schools? They found that many of them were world-class schools. And I bet you the students the Senator from Nevada was pointing to were the products of those schools. Do you know what they also found, I say to Senator ENSIGN. They also found schools where somebody's mom or somebody's wife

declared themselves principals and teachers and went in to teach without college degrees and received Federal subsidies to do it.

Mr. ENSIGN. Madam President, will the Senator yield?

Mr. DURBIN. I will yield when I finish.

They also found schools that did not pass the Life Safety Code inspection. They found schools where they had misrepresented what the building was being used for. And, of course, there were no comparative tests they could use.

In my mind, if this were to be an experimental program, a pilot program, and we wanted to make sure that the kids were protected and that at the end of the day we could measure the results honestly and accurately, you would have included these provisions. Unfortunately, they were not included.

So now the question is, Should the Federal taxpayers continue to subsidize the education of the students in the DC voucher schools? It is a legitimate question, and it is one that a serious committee should look at. In fact, I think it should be a committee the Senator serves on, and that is what we suggested. He is a member of the Homeland Security and Governmental Affairs Committee, chaired by Senator LIEBERMAN. He came to the floor when the Senator asked 2 weeks ago and stated publicly: Yes, I will have a hearing on the reauthorization of the DC Voucher Program, and, in fact, has indicated to many of us that he supports the program. He is no enemy of the program.

So when our bill says we ought to take a look at the total results of the millions of dollars we put into DC voucher schools, let's judge how the students are doing—incidentally, in the first year or two, it turned out that the test scores, when they tried to compare them, they said there doesn't seem to be much difference between students in voucher schools and those in public schools. Maybe that has changed. It is certainly worth asking the question.

In this bill, I also require now that the teachers in the DC voucher schools in this next year have a college degree. Is that what you call ending the program? I think it makes the program more responsible. I think it makes the program more likely to produce students with a good education.

Let me tell you what else happened. When the Department of Education took a look at this program, they raised questions about whether the people administering the program were spending the money wisely, whether they were watching how the resources were gathered and spent. There is a lot of talk about oversight here and a lot of criticism that taxpayers' money and Government funds are being wasted. That is a fair criticism of everything we do on the floor. Why should this program be any exception? Why should we create a standard for this program that is different from any other pro-

gram in Government or any agency of Government? I think it ought to withstand the oversight and review that every single program does.

I want to also tell you that this provision which created these schools—the law is a DC City Council ordinance. It was codified. It was made a law in the DC City Council, where it said specifically:

The Secretary may make grants under this section for a period of not more than 5 years.

We have gone beyond 5 years. I have not only allowed it, I said we should. It is only fair it go beyond at least an additional year. Now the Senator from Nevada objects to the DC government itself deciding whether to continue this program. For a lot of people who come to this floor and talk about home rule, local control of schools, they are basically saying to DC: You don't have any voice in this matter. You are our laboratory. We will decide what happens to your school right here in Congress.

The Senate and the House of Representatives are filled with many gifted politicians, people who have served in many offices throughout their careers and bring that service as an experience to help them serve in the Senate. But it turns out that many of them, more than anything else, always wanted to be mayors, and in particular Mayor of the District of Columbia. Time and again, this Congress—and an attempt is being made right now—tries to preempt the District of Columbia from making its own choices for its own citizens. I would no more think of imposing on Las Vegas, NV, an education program that its school district did not want, would not accept, without saying to them: You ought to have a voice in this as well.

So at the end of the day, we say the program needs to be reauthorized to make sure it is working, that the money is not being wasted, and the program needs to be approved by the DC City Council.

I have met some of these students to whom Senator ENSIGN has referred. They are truly impressive. They tell a wonderful story about lives that were turned around and new opportunities. And that is exactly what I wanted to create for my children and what everyone else wants to create. But believe me, we are not going to create new opportunities when we have DC voucher schools stuck in the basement of a home where the principal has no academic credentials and the teachers do not have college degrees. We are not going to create excellence in buildings which are dangerous for kids to be in. We are not going to create excellence until we have accurate measurement between the progress students are making in the DC voucher schools and in the public schools as well.

While we are engaged in this conversation, many on the other side—I am not pointing at the Senator from Nevada when I say this—many on the other side have completely given up on the DC public schools. They are wrong.

Michelle Rhee is the new chancellor of education in the District of Columbia. She is an extraordinarily talented young woman who has come from the Teach For America Program, one of the most successful new programs and largest employer of college grads in America. She was successful in Baltimore in bringing back a classroom that had fallen behind. She went up to New York to recruit nontraditional teachers. And she is now here with the same dedication and commitment. I am not about to give up on DC public schools. I honestly believe the vast majority of kids are going to be in those public schools, and they deserve a decent education. As much as we can help them, we should. To despair and say there is no hope for these public schools is not fair to Michelle Rhee, to the new Mayor, Mayor Fenty, or to those who want to see this new day in education in the District of Columbia.

I think an honest evaluation of the DC voucher schools, as well as the DC charter schools, and a commitment to reform in the DC public schools is the answer. For those who want to stop and say no evaluation, no reauthorization, no investigation, spend the money on the program, no questions asked, I am going to say no. I am going to fight this amendment because I think it is a move in the wrong direction. It is a move away from accountability. It is a move away from a local voice in the future of the education of kids in the District of Columbia. And it is a movement away from quality and back to the DC voucher original model that did not include the most basic standards we require of virtually every public school in America.

I can tell you that many who are participating in the DC Voucher Program agree with the reforms I have suggested. I have talked with them about it. There are those who will resist it. We cannot let them win the day by adopting the Ensign amendment.

Now I will yield for a question.

Mr. ENSIGN. I thank Senator DURBIN for yielding.

Madam President, is the Senator aware that in all of the private schools these kids are attending the core subject teachers have 4-year degrees and that it was only in subjects such as art and wood shop that they did not necessarily have 4-year degrees? Madam President, I ask the Senator from Illinois, through the Chair, whether he is aware of that.

Mr. DURBIN. Madam President, I say to the Senator from Nevada that the complement of teachers in the DC voucher schools has changed and improved over the years, there is no question about that. But it is also true to say that the standards imposed on the DC public school teachers are not being followed by the teachers in the DC voucher schools. We have created a double standard. As far as I am concerned, if you are arguing that we shouldn't require all teachers to have the appropriate academic credentials

based on the course they teach, I ask in response, through the Chair, is that the standard you are suggesting for your home State of Nevada?

Mr. ENSIGN. Madam President, I actually send my kids to schools where not all of the teachers in core subjects have 4-year degrees. But if a teacher is teaching art, if a teacher is teaching woodshop, or some other kind of program, I would ask: Does the Senator from Illinois really believe imposing that on private schools is necessary?

You send your kids to private schools just as I am sending my kids to private schools. We sent them where we thought they would get a good education. Does the Senator think these parents who are taking advantage of these programs don't care enough about their kids to send them to the best schools? That is why they are choosing to get them out of public schools. Wouldn't the Senator from Illinois agree those are wise parents signing up voluntarily for this program because they care about their kids?

Mr. DURBIN. I would like to respond to the Senator—I know our time is about to end—by saying that when the GAO did their study, incidentally, they found what you stated on the floor was not exactly the case. It turned out there were teachers in so-called “core academic subjects” without college degrees. Those subjects include English, reading, and language arts, math, science, foreign language, civics and government, economics, art, history, and geography. That is the definition of core academic subjects. And the teachers in many voucher schools did not meet those requirements.

I might also say to the Senator from Nevada that my wife and I made a personal decision to send our children to Catholic schools, knowing we would be paying public property taxes in my hometown of Springfield, IL, to support public education, and we had an additional financial burden on our family to pay for tuition, as you have. We accepted that burden, and I believe it is part of the bargain. We support public education, but we made a family decision to pay for our kids to go to Catholic schools.

I have supported public school referenda throughout my time in my hometown. I believe public education is the core when it comes to the development of the community. In my hometown of East St. Louis, when the public schools went to Haiti, the Catholic schools followed quickly behind. They are all in this together.

Madam President, I know we have run out of time.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 12:32 p.m., the Senate recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mr. CARPER).

OMNIBUS APPROPRIATIONS ACT, 2009—CONTINUED

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, what is the pending order?

The PRESIDING OFFICER. There is no pending order. There has been no unanimous consent. The Senator is recognized.

Mrs. HUTCHISON. Mr. President, I rise today to speak in opposition to the Omnibus appropriations bill that is before us. I think this debate has been good. We have had amendments. I thank the majority leader for allowing amendments to be offered. I note that not one amendment has been agreed to, but nevertheless we have had the debate and I think the American people do deserve to know more about this bill and why there are so many objections to it.

I am speaking against it today because of its sheer size. It is a \$408 billion bill. But when you account for the previous bills that have already passed appropriations this fiscal year for defense, military construction, veterans affairs, and homeland security, the bottom line is for fiscal year 2009 we are going to spend \$1 trillion. Passage of this bill will mark the first time in U.S. history that our regular appropriations process, funding Government in the routine and regular order, will surpass \$1 trillion.

Last week I offered an amendment. Senator MCCAIN offered an amendment, Senator COBURN offered several amendments, Senator DEMINT, Senator VITTER, Senator KYL—so many amendments have been offered but they were basically different ways to bring down the cost of this bill to some kind of responsible, agreed-upon area so we can say we are doing the people's bidding by taking care of taxpayer dollars. That is what we tried to do.

First, Senator MCCAIN offered an amendment to say let's do a continuing resolution that funds Government at 2008 levels until October 1, the end of the fiscal year. Next, an amendment was offered by Senator ENSIGN that basically said 2008 spending levels, but with the new bill, with the new authorizations. It will have all of the congressional imprint but it will be 2008 levels. That failed.

My amendment was 2008 levels with the rate of inflation, so instead of an 8-percent increase in spending in a 1-year period, double the rate of inflation, it would have been a 3.8 percent increase from 2008, which I thought was quite reasonable. Furthermore, I said let's decide that we will only take it from the accounts in the bill before us that duplicate what we passed in the stimulus bill weeks ago. In that way, we would say to the American people we are going to fund the Government at 2008 levels plus the rate of inflation, and the way we are going to cut it back is to let the Appropriations Committee decide which of the duplicated accounts that were passed in the stimulus bill 2 weeks ago would be taken