

an appreciation for the effects of decisions.

His was the first Supreme Court nomination on which I have been privileged to vote. I have never regretted supporting his confirmation. Just as I reached across the political aisle to vote for Justice Stevens, Justice O'Connor, and Justice Souter, who were nominated by Republican Presidents, I have urged Senate Republicans to fairly consider President Obama's nominations.

Justice Stevens has written important decisions upholding the power of Congress to pass legislation to protect hard-working Americans. He brought to his opinions a keen understanding of the distinct roles set forth in our Constitution for courts and for our democratically elected Congress, and a respect for both. In *Gonzales v. Raich* and in *Tennessee v. Lane*, Justice Stevens authored the Supreme Court's opinions upholding Congress' actions. I suspect these precedents will be even more important as the Supreme Court continues to examine laws passed by Congress to protect Americans from discriminatory health insurance policies and fraudulent Wall Street practices.

A decade ago, the Supreme Court overreached and unnecessarily waded into the political thicket to award the presidency in a close election to George W. Bush. In his dissent, Justice Stevens lamented that the decision would damage the Court's reputation and it did. He noted: "Although we may never know with complete certainty the identity of the winner of this year's Presidential election, the identity of the loser is perfectly clear. It is the Nation's confidence in the judge as an impartial guardian of the rule of law."

While the public's memory of that partisan decision was receding, it came rushing back when the Supreme Court issued another election-related decision in the *Citizens United* case. In *Citizens United*, five conservative, activist Justices overturned a century of law to empower corporations to overwhelm and distort the democratic process by using corporate funds to influence elections. Those five Justices substituted their own preferences for the judgment of Congress that had built on decades of legal development to pass bipartisan campaign finance reform legislation. In order to reach its divisive decision granting corporations, banks, and insurance companies new rights to the detriment of the voices of individual Americans, the Court overstepped the proper judicial role, and rejected not just the conclusions of the elected branches, but also its own recent precedent upholding the very law it chose to overturn. In one of his most powerful dissents, Justice Stevens noted that: "[The] Court's ruling threatens to undermine the integrity of elected institutions across the nation. The path it has taken to reach its outcome will, I fear, do damage to this institution." He was right, again.

I share Justice Stevens' concern for the Court's reputation. Two of the three branches of government are involved in campaigns and elections. When the American people see the third branch reaching out to influence those elections—as they did most recently in Arizona—they rightly get suspicious of its impartiality. I hope that Elena Kagan will show the judgment and forthrightness of Justice Stevens and share our concern about the public's confidence in our judicial system. Based on her Oxford thesis almost 20 years ago, before she had even attended law school, I expect that she will. I hope that she will honor Justice Stevens' extraordinary legacy and that of the Justice for whom she clerked, Justice Thurgood Marshall, by so doing.

The country needs and deserves a Supreme Court that bases its decisions on the law and the Constitution, not politics or an ideological agenda. A recent pattern of Supreme Court decisions has emerged by a conservative, activist majority. These opinions have twisted both the Constitution and the law to favor big corporations over the interests of hard-working Americans.

The most recent example of this conservative activism came just last week in a case called *Rent-a-Center v. Jackson* when they distorted their own precedent the clear congressional intent in passing the Federal Arbitration Act, FAA. Congress did not intend the FAA to apply to employment cases and certainly did not intend involuntary and unconscionable provisions requiring binding mandatory arbitration to override civil rights protections against racial discrimination and retaliation, as was allowed in that case. The five Justices distorted the law to forbid almost all court challenges to arbitration. In doing so, the court stripped quintessential civil rights protections that Congress has passed over the last several decades for hundreds of thousands of Americans who work under mandatory arbitration agreements. It is artifice and activism to the detriment of hard-working Americans who deserve their day in court.

The law is not a game. The law is intended to serve the people—protecting the freedom of individuals from the tyranny of government or the mob, and helping to organize our society for the good of all. No Justice should substitute his or her personal preferences and overrule congressional efforts passed into law to protect hard-working Americans pursuant to our constitutional role. Judges must approach every case with an open mind and a commitment to fairness and the rule of law. I was encouraged to hear Solicitor General Kagan voice similar views in her eloquent opening statement today. I hope Americans took the opportunity to see and hear from the nominee herself. If they did, I suspect that they will be supportive.

Tomorrow each Senator on the Judiciary Committee, whether Republican

and Democrat, will have 30 minutes to question her. I urge Senators to listen to Solicitor General Kagan's responses and to approach the hearing with the same openmindedness and impartiality that we expect from Supreme Court Justices.

#### HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS BARRY DANIEL SMITH

Mrs. SHAHEEN. Madam President, today I rise to express my deepest sympathies to the family of Army PFC Barry Daniel Smith, who died on May 7 while stationed at Fort Hood, TX. He enlisted in the Army in October of 2009 and completed basic training and Multiple Launch Rocket System training before joining the 2nd Battalion, 20th Field Artillery, MLRS, 41st Fires Brigade. The American people will forever be grateful to Private First Class Smith for his willingness to serve.

A longtime New Hampshire resident, Barry was a graduate of Littleton High School and Hesser College in Manchester, where he earned a degree in criminal justice. He was a lover of the great outdoors, of hunting and camping with family and friends. With his friendly nature and wonderful laugh, Barry made friends easily and had many.

Private Smith exemplified the best in America's long tradition of service to this country. He was extremely proud to serve in the U.S. Army. Our Nation can never adequately thank Private Smith for his willingness to make the ultimate sacrifice in the defense of the American people, nor can words diminish the pain of losing this young soldier. It is now up to us to honor his memory by supporting our veterans and their families and ensuring America's continued security.

Private Barry Smith is survived by his parents Dan and Shelly Smith of Auburn, ME, and Linda and Jonathan Larrivee of Littleton, NH. He is also survived by numerous siblings, grandparents, aunts, uncles and cousins. This young patriot will be dearly missed by all.

I ask my colleagues and all Americans to join me in honoring the life of Army PFC Barry Daniel Smith.

#### TAX EXTENDERS BILL

Mr. GRASSLEY. Madam President, I was surprised to see the Senate majority leader on Friday morning, in some of the harshest possible language, make the misleading assertion that Senate Republicans oppose the underlying policy in the tax extenders bill. His statement conveniently ignored the basic reason nearly every Republican for opposing the Democratic leadership's substitute. It was opposed to because it perpetuated the large deficit spending that has become the modus operandi of the Democratic leadership.

The way to a bipartisan agreement is to follow the path set 1 week ago

today. Just 1 week ago, the Senate passed a bill that extended the so-called Medicare doc fix for several months.

The bill was fully offset. It was paid for. It did not add to the deficit. Every Republican Senator supported that fiscally responsible approach. I would like to make a couple of points on the process employed by the Democratic leadership. The majority leader's comments this morning are typical of the dysfunctional way that these routine extenders have been unnecessarily delayed by the strategy and tactics of the Democratic leadership.

What I find surprising is that we took up a package, the fourth in the latest series, that, like previous exercises, absolutely belongs to the Senate Democratic leadership. That is to say they continued to refuse to take up a bipartisan package that I put together with Finance Committee Chairman BAUCUS. To be sure, some of the structure reflected the agreement my friend, the chairman and I reached.

I was under the impression that the Senate Democratic leadership was genuine in its desire to work on a bipartisan basis, but clearly I was mistaken. Although the Senate Democratic leadership was highly involved in the development of a bipartisan bill, they arbitrarily decided to replace it with a bill that skews toward their liberal wing.

My second comment goes to the way in which these expiring tax provisions have been described by many on the other side, including those in the Democratic leadership. If you rolled the videotape back a few months or so ago, you would hear a lot of disparaging comments about these routine, bipartisan extenders. From my perspective, those comments were made in an effort to sully the bipartisan agreement reached by Chairman BAUCUS and me.

If you take a look at newspaper accounts of that period, you'd come away with the impression that the tax extenders are partisan pork for Republicans. A representative sample comes from one report, which describes the bipartisan bill as "an extension of soon-to-expire tax breaks that are highly beneficial to major corporations, known as tax extenders, as well as other corporate giveaways that had been designed to win GOP support." The Washington Post included this attribution to the Senate Democratic leadership in an article at that time: "We're pretty close," [the majority leader] said Friday during a television appearance in Nevada, adding that he thought "fat cats" would have benefited too much from the larger Baucus-Grassley bill."

The portrait that was painted by certain members of the majority in some press reports was inaccurate.

For one thing the tax extenders include provisions such as the deduction for qualified tuition and related expenses and also the deduction for certain expenses of elementary and sec-

ondary school teachers. If you are going to school or if you are a grade school teacher, the Senate Democratic leadership apparently viewed you as a fat cat. If your house was destroyed in a recent natural disaster and you still need any of the temporary disaster relief provisions contained in the extenders package, too bad, because helping you would amount to a corporate giveaway in the eyes of some.

The tax extenders have been routinely passed repeatedly because they are bipartisan and very popular. Democrats have consistently voted in favor of extending these tax provisions. House Speaker NANCY PELOSI released a very strong statement upon House passage of tax extenders in December of 2009, saying this was "good for businesses, good for homeowners, and good for our communities." December of 2009 was not very long ago. In 2006, the then-Democratic leader released a blistering statement "after Bush Republicans in the Senate blocked passage of critical tax extenders" because "American families and businesses are paying the price because this Do Nothing Republican Congress refuses to extend important tax breaks."

Recent bipartisan votes in the Senate on extending expiring tax provisions have come in the Emergency Economic Stabilization Act of 2008, the Tax Relief and Health Care Act of 2006, which passed the Senate by unanimous consent and the Working Families Tax Relief Act of 2004, which originally passed the Senate by voice vote, although the conference report only received 92 votes in favor and a whopping 3 against. According to the non-partisan Congressional Research Service, extension of several of these provisions go back even further, including the Tax Relief Extension Act of 1999, which again passed the Senate by unanimous consent, but lost 1 vote on the conference report.

One Member on the other side said "Our side isn't sure that the Republicans are real interested in developing good policy and to move forward together. Instead, they are more inclined to play rope-a-dope again. My own view is, let's test them." Another Member of this large 59-vote majority exclaimed, "It looks more like a tax bill than a jobs bill to me. What the Democratic Caucus is going to put on the floor is something that's more focused on job creation than on tax breaks."

Reading those comments I found myself scratching my head. The only explanation for this behavior is that certain senators decided last week that it serves a deeply partisan goal to slander what have been for several years bipartisan and popular tax provisions benefiting many different people. The Washington Post article I quoted from earlier includes a statement from a Senate Democratic leadership aide saying that "No decisions have been made, but anyone expecting us immediately to go back to a bill that includes tax extenders will be sorely disappointed."

You can imagine, that today, after considering these comments, I am really scratching my head. We have before us the expiring tax and health provisions that were disparaged just a short time ago. Have they morphed from corporate tax pork? Have they suddenly re-acquired their bipartisan character? Are these time-sensitive items, now expired for more than 2 months, suddenly jobs-related?

Madam President, I also want to correct the record regarding a statement made last Thursday night by the senior Senator from Illinois. He said that the international tax increases that the Democrats have called for in the extenders bill would stop companies from sending jobs overseas. If only these international tax increases would do that, I would be at the front of the line, doing what I could to pass them. But, unfortunately, that is not what they would do. I would like to briefly describe why, if anything, these international tax increases would actually tend to hurt the job market here at home in America.

Quite to the contrary of the complaint by the senior Senator from Illinois, these international tax increases may make American businesses less competitive in the global marketplace. Increased taxes increase the cost of doing business. Those tax increases are targeted only at U.S. companies on their business abroad. They are not aimed at foreign companies with which the U.S. companies are competing side-by-side. Guess what. The cost must be absorbed by the U.S. company. The cost of these tax increases may make it less likely that American businesses will hire. Instead German, or Indian, or Chinese companies will out-compete and thus be hiring more. If the U.S. taxes the foreign subsidiaries of U.S. parent companies at ever higher rates, the result won't be jobs kept here at home.

No, the result will instead be that the U.S. will become a less and less attractive place to have a parent company, to have a global headquarters. This will result in less, not more, but less jobs here in America.

But that is certainly not my only objection. Not only could these international tax increases result in less American jobs, but these proposed tax increases have not had adequate vetting. In some cases, the proposed tax increases would actually be retroactive. These tax increases would be permanent tax increases, meant to pay for temporary tax reductions—a strange miss-match. If these international tax increases really are loophole closers, then it is squandering them to use them for such temporary provisions, rather than to use them to pay for corporate tax reform.

Finally, the business community—that is, the hiring sector—has reacted quite negatively to this bill, even though the bill also contains the tax extenders that the business community wants.

Those are the reasons that I oppose these tax increases.

#### SAFER AIR ACT

Mr. BENNETT. Madam President, I am pleased to rise today to speak about an important piece of legislation that I introduced last week with my friend Senator KLOBUCHAR. The SAFER AIR Act is going to bring our commercial air travel security checkpoints into the 21st century. Threats to our Nation's air travelers have advanced and magnetometers are simply not enough in this post-9/11 world. Our legislation would support and expand TSA's current efforts to adopt and deploy advanced technologies, like the advanced imaging technology, and explosive trace detection at an accelerated pace to ensure such equipment is the primary screening method in every commercial airport.

The December 25 terror attempt on NW flight 253 was a frightening wake-up call that could have been prevented. It represents a failure in the mechanisms of our national security. This failed plot highlights our need to look at areas that can increase our security in the national airport system immediately. Important security improvements have been made in intelligence handling, but I am convinced more needs to be done. Airport security improvements are a needed and overdue part of the equation.

I have been watching our domestic airport security closely in the past year. My airport in Salt Lake City, UT, is a testing site for advanced imaging technology. I have seen this machine in use, and been impressed with what represents a true advancement in the technology of safer skies. TSA needs to utilize equipment that is currently available to identify plastic and liquid explosives as well as move forward with the development and testing of new technologies to fight emerging threats.

Our bill will require TSA to install technology with the capability of detecting plastic explosives, liquid explosives and other nonmetallic threats and explosives. These devices have been tested and available since 2007. The delay in deployment has gone on long enough. The SAFER AIR Act will require this technology in all commercial airports by 2013 and will encourage the further development of these technologies as threats continue to advance.

An important provision in our legislation is the privacy protections it will establish for our traveling public. I applaud TSA for the protections it has already put in place. Our language will codify those protections and ensure the new technologies will also be used in a manner that doesn't violate the personal privacy of commercial flyers in the United States.

New and emerging technologies have a great ability to detect nontraditional threats. I am eager to see these capa-

bilities improved through further innovation and testing. I urge my colleagues to join me in supporting the SAFER AIR Act and do all we can to better protect the traveling public from existing and emerging threats.

#### ADDITIONAL STATEMENTS

##### ARKANSAS NEWS-EDITORIAL CONTEST WINNERS

• Mrs. LINCOLN. Madam President, today I congratulate the 2010 winners of the Arkansas Press Association's News-Editorial Contest, who were honored this past weekend during the 2010 Tri-State Convention, cohosted by the press associations of Arkansas, Mississippi and Tennessee. I commend the Arkansas reporters, editors, and staff who were recognized during this prestigious event.

Under the leadership of executive director Tom Larimer, the Arkansas Press Association serves 135 newspapers: 99 weeklies, six semi-weeklies, 28 dailies and 2 free newspapers.

Our Arkansas newspapers inform citizens throughout our State and are an essential part of Arkansas's culture. I appreciate the dedication of all of our Arkansas news media, and I commend them on their commitment to excellence in journalism.

As the oldest professional association in the State, the Arkansas Press Association has a long history of supporting our local newspapers. All Arkansans should be proud of the hard work put in each day by our Arkansas news media, who work tirelessly to fairly and accurately report the news of the day. Their work educates and inspires each one of us, and I am grateful that we live in a society where reporters are able to perform their jobs freely and openly.

I again congratulate all of the winners of this year's conference.●

##### TRIBUTE TO MARTIN LEONARD SKUTNIK

• Mr. CONRAD. Madam President, I want to take a moment to honor a great civil servant. On June 4, Martin Leonard Skutnik retired after 30 years of working at the Congressional Budget Office. Lenny exemplified the best of our public workforce. In his decades of service, Lenny worked tirelessly to support the work of CBO. He moved from handling mail and supplies, to printing reports, to providing IT support. Lenny's behind-the-scenes efforts helped CBO in its mission to provide Congress and the public with clear, timely, and accurate information. For that alone, he deserves our recognition and deepest thanks.

But Lenny will also be remembered for the heroic deed he performed early in his career at CBO. On a cold January day in 1982, Lenny was returning home from work when he witnessed Air Florida flight 90 crash into the Potomac

River. Risking his own life, Lenny jumped into the icy waters and saved one of the passengers from drowning. His selfless and heroic act was widely acclaimed at the time. President Reagan honored Lenny in his State of the Union Address, singling him out in the House gallery. This acknowledgment began the tradition of Presidents, in their State of the Union Addresses, recognizing people who have done extraordinary things. The President's gallery in the House is now often referred to as "the Heroes' Gallery," thanks to Lenny.

Lenny received many awards and honors for his actions on that day. But he never sought out the limelight or asked for special treatment. He remained a humble and hardworking public servant. Lenny insists he "wasn't a hero," and that he "was just someone who helped another human being." But we know a hero when we see one. We can't thank Lenny enough for his long, faithful service to CBO and the American people. I wish him a long, happy, and well-deserved retirement.●

• Mr. GREGG. Madam President, today I would like to recognize and thank a dedicated civil servant, Martin Leonard Skutnik. Lenny, as he is known, recently retired after working for 30 years for the Congressional Budget Office. He started at CBO in 1980 handling the mail and messenger duties—before the advent of the internet, email, and blackberries—and later worked to help print and produce CBO reports and provide IT support. Lenny worked behind the scenes, tirelessly for three decades, to help provide Congress with the information it needed. Lenny was a model civil servant, and for that he deserves our respect and praise.

Lenny was also a model citizen, and whether he thought so or not, a hero. In January 1982, Lenny witnessed a horrible event when an Air Florida plane crashed into the Potomac River near the 14th Street bridge. Without so much as a thought about his own safety, Lenny jumped into the river, which was full of chunks of floating ice, and saved the life of one of the crash victims. He was honored later that month by President Reagan during his State of the Union Address, and this began the inspirational tradition of Presidents honoring ordinary people who have done extraordinary things.

Through it all, Lenny shied away from the spotlight and continued to report to work, putting 100 percent effort into his work each day. He worked hard, remained humble, and never sought to exploit his fame. His character exemplifies the best of the American spirit, and for that he deserves our admiration. I wish to thank Lenny for his hard work and for his heroism—may he enjoy a healthy and well-deserved retirement.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to