

Let me describe some of these notorious violators our government has tracked down and tried to levy a \$10,000 fine against. This is Joni Scott. I have met Joni Scott. She is holding a Bible in this picture. The reason Joni Scott is holding a Bible is this young woman went to Havana to pass out free Bibles. An American woman went to Havana to pass out free Bibles. What happened to her? Did the Cuban Government get ahold of her somehow and give her a bad time? No, no. The American Government did. The American Government tracked her down and tried to levy a fine because she was suspected of traveling to Cuba. Isn't that something? It is unbelievable.

Here is another woman I have met. This is Joan Slotte. She is a bicyclist. She is a grandma in her midseventies. She joined a Canadian group to bicycle in Cuba. Her government then tracked her down and not only tried to fine her \$10,000 but tried to attach her Social Security payments and take them away—this from her government. It is unbelievable.

Then, finally, SGT Carlos Lazo, whom I have described before. He fled Cuba and then went to Iraq and fought for America and was awarded a Bronze Star. He then came back to America after having fought for his country. He had two sons in Cuba, one of whom was sick, and his government—the American Government—told this Bronze Star medal winner, a very courageous soldier coming back from the war, that he was not able to visit his sons. They restricted his right to travel.

Here is the point. The point is, the U.S. House of Representatives, through the Agriculture Committee, has now passed legislation that eliminates the restrictions, eliminates the things done by the previous administration to try to stop shipment of food to Cuba. I believe we have the votes in the Senate to move that position as well.

I actually offered the amendment about 10 years ago in the Senate that is now law that opened for the first time the ability to ship food and medicine for cash to Cuba. I just felt it was immoral. I think it is immoral to use food and medicine as a weapon, and that is what we are doing, including food and medicine as part of the embargo. I offered the amendment. It is now law. We shipped a couple billion dollars' worth of food to Cuba, all paid for in cash. But the previous administration decided to change the rules and required payment before shipment as opposed to payment when the goods transferred. That was an effort to try to shut down agricultural sales to Cuba. The House has changed that. We would do that as well. It is important to take this action. I was pleased last week when I read what the House of Representatives did. I think it is the right thing to do.

Here are pictures of who else believes we ought to lift the travel ban. Marcelo Rodriguez does. He is a political prisoner in Cuba. Yoani Sanchez does. She is one of the leading political bloggers

in Cuba. Guillermo Farinas, who has staged several hunger strikes in Cuba, believes we should lift the travel ban. Oscar Chepe, a former political prisoner, and his wife Miriam Leiva, the founder of Ladies in White, believe we should lift the travel ban.

They are among 74 Cuban human rights activists who sent a letter to the House of Representatives saying they believe we ought to lift the travel ban.

I have visited with the folks in Cuba who are political dissents. They do not like their government. They are doing everything they can to get a new government, a better government. But they also believe this embargo and the travel ban does not serve their interest.

I believe that at some point, when it is appropriate, we will be able to do in the Senate what the House Agriculture Committee has done; that is, lift the travel ban and undo some of the detrimental things that were done as well in the tightening in 2003.

I and Senator ENZI, along with 38 other cosponsors—that is 40 Senators—have cosponsored legislation that would lift the travel ban to Cuba. I believe when we have the opportunity, Senator ENZI and I will offer that bill here on the floor, and I believe we will have the votes to pass it in the Senate.

Once again, it is unthinkable to me that we have decided we are going to try to punish the Cuban Government by restricting the rights of the American people. And we have done it for almost 50 years. By what authority, by what justification do we believe the Federal Government ought to tell the American people: You can travel wherever you want in this world. Go to Iran, go to North Korea, China, Vietnam. But you cannot go to Cuba. By what justification does the government have the right to restrict that right of the American people? The answer is, none, and it is long past the time we fix it. That is what I believe we will do in the Senate in the weeks ahead.

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

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

#### FAA REAUTHORIZATION

Mr. DORGAN. Madam President, in 2 minutes or so, let me talk briefly about the FAA reauthorization bill, which we have passed out of the Commerce Committee and out of the full Senate—it passed 93 to 0 here in the Senate. Senator ROCKEFELLER and I, Senator KAY BAILEY HUTCHISON and others, are working very hard to try to negotiate an opportunity to get a report that we can bring back to both the House and the Senate to get this done.

The reason this is urgent and so important is the modernization of our air traffic control system is long overdue and there is so much that is needed in this FAA reauthorization bill. It deals with safety issues. As chairman of the Aviation Subcommittee, I held a number of hearings on the Colgan crash in New York—the tragic crash that took the life of so many. So I wanted to make a point, because I know people are wondering what is happening on that legislation.

We had a meeting yesterday for over an hour. We are going to have another meeting this week. We had a meeting the week prior to the break last week. We are working very hard to try to find a way to bridge the gap. I think we are very close to being able to get something we can bring back to both the House and Senate. My hope is that early in this work period we can get this done. I talked to Senator ROCKEFELLER late last night by phone after our meeting in the afternoon. So Senator KYL and many others have been involved—Senator WARNER.

This is a very big piece of legislation. Changing our air traffic control system, modernizing our system from a ground-based radar system to a GPS system is a big, challenging project, but we have to get at it. This bill has languished way too long. We have reauthorized it many, many, many times. Now it is time to get the legislation done and get it signed by the President.

We are working very hard, and I hope in the next week or two Senator ROCKEFELLER and I and Senator HUTCHISON and others can come to the floor and report success and bring a bill to the Senate to vote on.

#### KAGAN NOMINATION

Madam President, let me also finally say—I didn't mention it earlier—that the Kagan nomination is going to come to the floor during this work period, I am sure. I strongly support the Kagan nomination and intend to vote for her nomination. I think she is an awfully good nominee. I know many of my colleagues will be doing so as well. I fully expect her to pass the Senate quite easily. I would expect the nomination to be approved quite easily.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARPER. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### IMPROPER PAYMENTS

Mr. CARPER. Mr. President, only this morning I was standing here and the Senator from New Mexico was presiding over the Senate. I got through half of my remarks and had to yield to

the Senator from Maryland. Now that no one is on the floor, I wish to take maybe 5 or 10 minutes and finish what I started this morning. I was talking earlier today about how to reduce the amount of overpayments—we call them improper payments—the Federal Government makes. Last year they added up to almost \$100 billion, not counting the Department of Defense, not counting part of Medicare, not counting part of the Department of Homeland Security—a lot of money.

I also added that Federal agencies are doing, for the most part, a better job of estimating and identifying costly mistakes of improper payments. I think the White House deserves credit. Not only this President but his predecessor George W. Bush deserve credit for, not only in the case of George W. Bush, saying: We ought to have improper payments in the law and we ought to make this a priority, but also for President Obama and his team who are beginning to scour Federal programs for improper payments and also taking strong steps to try to eliminate them in the future.

White House Budget Director Peter Orszag noted that agencies employed stricter standards for identifying improper payments, resulting in much of last fall's reported improper payments increase. I remember maybe 5 years ago, when Senator COBURN and I were working on this issue, we found there was maybe \$40 billion worth of improper payments being reported by Federal agencies. Last year it was about almost \$100 billion. So it sounds as if we are going in the wrong direction.

As it turns out, what has actually happened is more agencies are reporting it. Initially, not very many agencies were reporting it, but as we have fuller reporting by all the agencies, we find we have a better idea of how big the problem is. It is not so much that it is getting worse, it is just that we are having better reporting from the agencies.

Now that we are having that, the key is to make sure the agencies that are making improper payments make fewer of them, and then that we go out and recover the moneys that have been improperly paid.

The White House announced this winter—earlier this year—an executive order to not only improve the collection of improper payments data, but to also improve our ability to avoid making improper payments, and to increase what I think is important, the use of recovery auditing. I say the words “recovery auditing”—postaudit cost recovery. I think for most people, their eyes kind of blur over and they tune out. We are talking about \$100 billion here, money that is going out, most of it improperly, a lot of it overpayments. We are talking about a country where our deficit is over \$1 trillion. If we are going to have the ability to reduce our deficit, it is not going to come from any one silver bullet or any one par-

ticular approach. But this is an approach that can help.

I applaud the administration's concrete steps to improve transparency and make agencies and agency leadership more accountable.

Still, there is a lot more we can do, which is why our legislation currently on its way to the President's desk is so important in order to take the next steps, especially when it comes to actually going out and recovering the money we lose every year to avoidable errors and preventable fraud.

As I often say to my staff—they have heard me say this more times than they care to remember—if it is not perfect, make it better. Everything that I do, I know I can do better. That includes making sure we are making the appropriate payments to the right entity, for the right amount of money.

All of us in Congress share this responsibility to do that; that is, if it is not perfect, to make it better. We all share a responsibility to do that in curbing waste and fraud.

The legislation that I think the House is going to pass later today, and hopefully the President will sign later this month, is called the Improper Payments Elimination and Recovery Act. It is the result of a 6-year journey. During the last Congress, I introduced an earlier iteration of this bill with Senator CLAIRE McCASKILL of Missouri. Over the last several years, I have chaired hearings on the issue of improper payments, waste, and fraud. Since then, we have worked with the Office of Management and Budget, the Congressional Budget Office, many other inspectors general, and many other experts to refine and strengthen our legislation.

The most recent version of that legislation was introduced last summer—about a year ago—along with Senator LIEBERMAN, who chairs our full committee, Senator COLLINS, the ranking member of the Homeland Security and Governmental Affairs Committee, Senator MCCAIN, and Senator MCCASKILL. It was approved by the Committee on Homeland Security and Governmental Affairs late last year and was approved by the full Senate in June of this year. A companion bill was also introduced in the House by Representative PATRICK MURPHY from Pennsylvania, our neighbor to the north.

This legislation, I believe, is a perfect example of bipartisan common sense and bicameral common sense. And actually when you consider Senator LIEBERMAN is an Independent, it is tripartisan—Democrat, Republican, and Independent.

I think the bill makes a number of key reforms. First of all, it improves transparency by lowering the threshold whereby agencies are supposed to report improper payments. This will better inform the public about where their taxpayer dollars are going, and it will help us in Congress find ways to fix the problems that lead to waste.

The second key reform in this legislation is it requires agencies to produce

audited corrective action plans with targets to reduce waste. It is all well and good that we report improper payments or wasteful payments. The key is to stop doing it, to not just report it but to go after it and stop repeating the same mistakes.

A third reform is that this legislation increases the recovery of overpayments by requiring all agencies that spend more than \$1 million a year to perform recovery audits on all their programs.

Finally, fourth and last, the legislation penalizes agencies that fail to comply with Federal financial management and accounting laws and would make sure that progress in eliminating improper payments is part of senior agency officials' performance evaluations. So you say to somebody who is like a leader or supervisor in these Federal agencies: Part of your evaluation is going to be whether you are doing a good job of stopping overpayments, going out and making sure you do not make more of them, and going out and collecting money that is being “misplaced” or overpaid.

I am particularly pleased with the provision in the bill requiring major agencies to make greater use of tools that many private sector business use to recover overpayments when they make them. When agencies have used these tools, they have had some success, some real success.

About 7 years ago, 2003, Congress mandated what was at the time described as a pilot Recovery Audit Contractor Program to examine Medicare fee-for-service payments. In other words, Congress said: OK, Medicare, when you are making these fee-for-service payments to doctors, hospitals, and nurses, we want you to do, in three States—California, Florida, and New York—we want you to look at those three States and see if we are overpaying money. If we are making mistakes in Medicare, go get it.

I think a year or so later, we added to the initial three States Massachusetts and South Carolina. During the first year of this demonstration program, about \$50 million was recovered and returned to the Medicare trust fund. In the second year, about a quarter of a billion dollars was recovered, returned to the Medicare trust fund. I think if you add the total for the 3-year pilot program, which ended up in five States, they recovered about \$1 billion. They recovered about \$1 billion. It is real money.

One of the reasons why the Medicare trust fund is running out of money is because of fraud. Some people may have seen—I think it was on “60 Minutes” a year or so ago. Mr. President, “60 Minutes” did a special where they focused on a bunch of doctors' offices in some town in south Florida. The doctors' offices had three things in common: One, they had no patients; two, they had no doctors; three, they had no nurses. All they were were like a billing operation on Medicare, to defraud money from Medicare and take it from the Medicare trust fund.

Last year, we were looking at the Medicare trust fund running out of money in about 8 years. That is untenable. With the changes we have made in the health care reform legislation, I think we pretty much doubled that life to maybe closer to 15 or 20 years, but we still have a problem. With all the money that is defrauded from Medicare, we want to recover as much of it as we can and put it back into the program.

But in any event, the pilot program—which started in three States and expanded to five States—this year we are expanding it to all 50 States.

There is also a provision in the recently enacted health care law—it is called the Patient Protection and Affordable Care Act, it is the health care reform legislation adopted earlier this year—but there is a provision that says to the folks who run health care at the Department of Health and Human Services that they have to expand this program, this cost recovery program, to include Medicare Advantage, to include the Medicare prescription drug program, and also to include Medicaid. As money is recovered from fraud and overpayments and missed payments in Medicaid, that money will be split between the States and the Federal Government.

The sooner the full program is up and operating, the sooner we can recover even more money—I think probably billions of dollars—in additional overpayments.

There is an added benefit to an expansion of recovery auditing. The Recovery Audit Contracting pilot program has identified dozens of vulnerabilities in the Medicare payment system that can lead to additional waste and fraud.

According to the Centers for Medicare and Medicaid Services—that is the entity that oversees Medicare and Medicaid—the contractors hired to recoup overpayments identified ongoing vulnerabilities that could lead to future overpayments totaling about a third of a billion dollars more. So not only did the contractors recover about \$1 billion in overpayments in the 3-year pilot program, they also identified additional problems in the systems they looked at, which, if we will address them, will reduce and avoid errors in the future.

Tomorrow—what is today, Wednesday?—tomorrow, Thursday—I think tomorrow afternoon—the Subcommittee on Federal Financial Management, which I am privileged to chair, will hold a hearing, and that hearing will examine the history and the opportunities for the Medicare Recovery Audit Contracting.

In conclusion, the Improper Payments Elimination and Recovery Act, which again, hopefully, the House will pass today—the Senate has already passed it; and hopefully the President will put his “John Henry” on it later this month—that legislation will allow us to make even greater strides in

curbing waste and fraud in the work of Federal agencies during the years ahead. Given the size of the budget deficits we face, we need to do that.

Enactment of this legislation is not the last step, but it is an important step. I look forward to seeing this important legislation signed into law and to working with my colleagues and with the administration on its successful implementation.

A lot of times people say to us: Why don't you do something about waste, fraud, and abuse? They are convinced that a lot of their money ends up being misspent, improperly spent, overpaid in some case. The people, or entities, businesses, should not get any of this money. Somebody ought to do something about it. With the legislation that will be on its way to the President, hopefully tomorrow, we are going to do something about it. We already are doing some pretty good things about it. We are going to do more, and we need to build on that record.

Thank you very much, Mr. President. The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

#### WALL STREET REFORM

Mr. TESTER. Mr. President, I rise today in strong support of the Wall Street reform conference report. The Senate will make history when we pass this legislation that finally holds Wall Street accountable and finally cleans up the schemes and abuses that nearly brought our entire economy to its knees. Most importantly, this bill ends once and for all taxpayer-funded bailouts of Wall Street banks and investment firms. It finally gets rid of any notion that any private company can somehow be “too big to fail.”

I never bought that argument. In fact, I was the only Democrat in the Senate to vote against both the bailout of Wall Street and the auto industry. I do not believe in bailouts. But I do believe in making sure folks are playing by the same rules.

Our economy went belly up a year and a half ago because there were no referees on the field. With this bill, that is about to change. Big banks will be required to pay for their own liquidation should they fail, and taxpayers will never again be a part of that equation.

The bill also streamlines the regulation of Wall Street, providing the referees the tools they need to get the job done fairly and effectively.

It also ensures that everyone will now be playing by the same rules, and that unregulated entities offering financial products have to live up to the same standards as the community banks and credit unions that serve States such as Montana.

The bill has tough new rules to prevent the spread of risky and dangerous products such as subprime mortgages that torpedoed our Nation's entire financial industry.

My focus over the last several months has been to make sure this bill is right for Montana and right for rural America. After some hard work, I think we did just that. This Wall Street reform bill is good for Montana's community banks, and it benefits small businesses.

Even in this era of bitter partisanship, the Senate unanimously passed an amendment I offered to make sure banks only pay their fair share for Federal deposit insurance. Right now, smaller community banks are paying for 30 percent of this insurance, even though they account for only 20 percent of all bank assets. That does not make sense, and this bill fixes that problem.

This conference report also includes a provision I drafted requiring the Consumer Financial Protection Bureau to consider the impact of all rules on community banks and credit unions and the rural customers they serve before any of those rules are made.

The legislation ensures that community banks will not be punished for the bad behavior of the mortgage brokers who offer risky mortgages. Those banks will be able to maintain the community-based regulators they currently have, and in the case of State chartered banks, the same lending limits they currently have.

Additionally, this bill ensures that community banks will be able to continue to provide the same mortgage products—including those specific to farmers and rural Americans—to their customers.

For small businesses, this legislation makes it easier for investors to help get new small businesses up and running while protecting investors from schemers. It exempts small public companies from costly additional compliance and regulation under Sarbanes-Oxley.

This bill is a win for Main Street. It holds Wall Street accountable and preserves the critical role community banks have in strengthening communities, creating jobs, and building small businesses. That is important because Montana families rely on their community banks to finance and grow their businesses and farms, help pay their bills, and put their kids through school.

This is a strong bill. It ends taxpayer-funded bailouts. It begins a new era of strong commonsense regulation to put the sideboards on our fast-moving financial industry, without taking away the fundamental tools it needs for healthy competition and growth, which strengthens this economy.

Let me be clear. Our work on this legislation does not end today. I will continue to remain vigilant to ensure this legislation is implemented and enforced in the way it was intended. We simply cannot afford to do nothing and let our financial industry go by the wayside ever again.

With that, I thank you, Mr. President.