very accurate, about some despot or some leader of a country who has done criminal acts, has stolen the property of that country or any one of a number of things—it could be very accurate and, in our country, truth is a defense—what they will do is maybe order online a couple copies of the books and deliver them to another country with weak libel laws and then seek judgments against the author, against the publisher, against newspapers that may have published excerpts of it; everything to chill any criticism of those who have either breached human rights or stolen from their own country and on and on.

On a broad scale, libel tourism results in a race to the bottom. It causes America to defer to a country with the most chilling and restrictive free speech standard determining what they can write or publish. This undermines our first amendment. The first amendment, as I said earlier, guarantees the diversity of thought and opinion in this country which actually allows and determines and guarantees that democracy.

The freedoms of speech and the press are cornerstones of our democracy. They enable vigorous debate, and an exchange of ideas that shapes our political process. Reporters, authors and publishers are among the primary sources of these ideas, and their ability to disseminate them through their writings is critical to our democracy. The broad dissemination of materials through the Internet, as well as the increased number of worldwide newspapers and periodicals, has compounded the threat of libel tourism.

This problem is well documented. Two years ago, the United Nations' Human Rights Committee observed that one country's libel laws ''discourage[d] critical media reporting on matters of serious public interest, adversely affect[ed] the ability of scholars and journalists to publish their work,'' and ''affect[ed] freedom of expression worldwide on matters of valid public interest.''

Several States, to their credit, have enacted legislation to combat this problem, but we need a national response. While we can't legislate changes to foreign laws that are chilling protected speech in our country, what we can do to uphold the right of free speech in our own country is assure that our courts do not become a tool to uphold foreign libel judgments that undermine American first amendment or due process rights. The SPEECH Act is an important step toward reducing this chilling of American free speech

The SPEECH Act is an important step toward reducing this chilling of American free speech. Americans have a great gift in their right of free speech. Every single Senator, Republican and Democratic, should join, as we have in this case, to protect America's rights.

The SPEECH Act is the product of hard work and extensive negotiations on both sides of the aisle, and the process is certainly mindful about principles of international comity. Many supporters would not have written this bill in this exact way, but all recognize that a bipartisan compromise is an important step in confronting the libel tourism issue. Without it, we could not pass this bill.

Among the supporters are the Vermont Library Association, former Attorney General Michael Mukasey, the former Director of the Central Intelligence Agency, James Woolsey, the American Library Association, the Association of American Publishers, the Reporters Committee for Freedom of the Press, the American Civil Liberties Union, Net Coalition, and renowned first amendment lawyer, Floyd Abrams.

I would also like to recognize Dr. Rachel Ehrenfeld, Director of the American Center for Democracy, who herself has been the victim of a libel suit in the United Kingdom, and has been a tremendous advocate for Congressional action in this area.

I wish to thank Senators SPECTER, SCHUMER, and LIEBERMAN for their work in raising this important issue in the Senate and Representative COHEN for his hard work on libel tourism legislation in the other body. I am pleased the Senate has adopted this bipartisan legislation. I look forward to its prompt consideration and adoption by the House and to the President signing it into law.

Mr. President, I do not see anybody else seeking recognition, so I will 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. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

SMALL BUSINESS LENDING FUND ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 5297, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Pending:

Reid (for Baucus/Landrieu) amendment No. 4402, in the nature of a substitute.

Reid amendment No. 4403 (to amendment No. 4402), of a perfecting nature.

Reid amendment No. 4404 (to amendment No. 4403), of a perfecting nature.

Reid amendment No. 4405 (to the language proposed to be stricken by amendment No. 4402), to change the enactment date.

Reid amendment No. 4406 (to amendment No. 4405), of a perfecting nature.

Reid motion to commit the bill to the Committee on Finance with instructions, Reid amendment No. 4407 (to the instructions on the motion to commit), in the nature of a substitute.

Reid amendment No. 4408 (to the instructions (amendment No. 4407) of the motion to commit), to change the enactment date.

Reid amendment No. 4409 (to amendment No. 4408), of a perfecting nature.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

KAGAN NOMINATION

Mr. SESSIONS. Mr. President, I wish to speak on a very serious issue relating to the confirmation of Solicitor General Elena Kagan for the Supreme Court of the United States. As I was preparing for her hearings, I noted what struck me as a disturbing decision she had made as Solicitor General shortly after taking that position, in a case called Witt v. Department of the Air Force. In that case, a former member of an Air Force Reserve unit in Washington State sued the government to challenge the ''don't ask, don't tell'' law, which essentially says openly homosexual persons may not serve in the U.S. military. The case was dismissed by the district court, and the military was allowed to proceed with its policy. But when it was appealed to the Ninth Circuit, that very liberal court of appeals overturned the district court and said the case should go to trial and announced an unworkable legal test that the lower court must apply and that the government would have to meet for the ''don't ask, don't tell'' statute to survive constitutional challenge.

After that unprecedented ruling, the Solicitor General's Office, then manned by the Bush administration personnel, immediately authorized an appeal to the full Ninth Circuit, en banc, and the government asked the full court to take a look at it and overturn the three-judge panel. The full court of appeals declined to do so, over strong objections from several judges on the Ninth Circuit who thought their colleagues had clearly gotten the case wrong. In fact, the First Circuit in the Northeast had already reached a different conclusion in a very similar case, and had upheld the statute.

At that point, the government could have appealed the Ninth Circuit decision to the Supreme Court, as I think the Solicitor General's Office clearly was on track to do. First, they sought en banc review, and then they would seek interlocutory appeal to the Supreme Court. But as it happened, by

the time the case was ripe for appeal, the Obama administration had come into office and Ms. Kagan had become Solicitor General. She was now head of the office that makes this decision on whether to take cases to the courts of appeals or, if necessary, to the Supreme Court; the office that is charged with the great responsibility of defending before the Supreme Court the statutes passed by the United States Congress. Of course, don't ask, don't tell is a congressional statute, not a policy of the military. So it fell to her to decide whether to take the case to the Supreme Court. She refused.

I practiced law for 20 years—15 as part of the Department of Justice, as a U.S. attorney for 12 years—and I think I can make some commonsense evaluation of the judgments the lawyers made in this litigation. Ms. Kagan, at the time she made this decision, had only been Solicitor General—had only served in the Department of Justice—for 6 weeks or so.

As I analyzed what I think happened, I asked some serious questions about why this Solicitor General failed to follow through on what appeared to be the direction of her predecessor. And I was struck by the distinct possibility that Ms. Kagan did not fulfill this fundamental responsibility of her office, which is to defend the statutes of the United States regardless of her personal policy views. So at the time of her confirmation hearing, just a couple of weeks ago, I asked her about this case and the facts that led up to it. I asked her to explain the decision, and I deliberately intended to give her time to explain it. Well, she took time, using notes for about the only time I saw in the hearing, and talked uninterrupted for about 10 minutes to explain how it was that she made the decision.

At the end of it, I thanked her for her answer and noted that I was going to have to review this because what she had done did not make good sense to me. I have to make a judgment. I am a Senator. I have to know whether the person who is being considered to sit on the highest Court of the land with a lifetime appointment—could serve 30, maybe 40 years on the Court—whether they understand that officeholders have duties and responsibilities that they cannot just fail to discharge, that they must do?

So I have conducted an examination, and I must say I am very troubled by what I have found about this case. I think the record shows that Ms. Kagan did not, in fact, fulfill her responsibilities in a good way and in a faithful way as Solicitor General and that she, in effect, violated a specific promise she made to the Judiciary Committee when she testified under oath during the hearing on her nomination a year or so ago to be Solicitor General. She had to be confirmed then and came before the committee.

Before I go further, I wish to provide some background. It is widely known by many that Ms. Kagan is personally opposed to don't ask, don't tell. She has been opposed to it for some time. While she was dean at Harvard, she blocked the military recruiters from the campus career services office because of her opposition to don't ask, don't tell. She called don't ask, don't tell ''a moral injustice of the first order.'' She spoke at a protest of students who protested while a military recruiter was in the next building, and she changed the Harvard policy from admitting recruiters to the career services office to denying them admittance, without legal authority, contrary to the law Congress passed and on which I worked, to force universities to treat our military men and women who come to recruit on their campus with the same dignity and respect as they would treat anyone else from some law firm who makes millions of dollars. At the recent hearing she openly admitted to me that her views remain the same about this statute.

When she came before the committee for the position of Solicitor General, she was specifically asked about this in written questions, in light of her strong opposition to this law. Congress passed three or four versions of the Solomon Amendment to finally require that colleges and universities treat our military on an equal basis, and some were forced to do so or lose Federal funding. She was specifically asked, in light of her strong opposition to this law, whether she would be able to defend it as the job of Solicitor General would require. This was not a mystery. We knew this matter was coming up through the courts of appeals and would be coming before the Solicitor General.

She was flatly asked: If you are going to take this job, as you have been opposed to this statute, will you defend it as you are lawfully required to do? Only the Solicitor General can represent the U.S. in the Supreme Court. If the Solicitor General does not defend an act of Congress, who will? There is no one else. So it was a good question.

She promised the committee under oath that she would, and she said that her ''role as Solicitor General would be to advance not my own views but the interests of the United States.'' Correctly stated.

She went on to say that she was fully convinced that she could ''represent all these interests with vigor, even when they conflict with my own opinions.'' She said her general approach to suits challenging a Federal law would be to make any ''reasonable arguments that could be made in its defense,'' and this would include ''challenges to the statute involving the don't ask, don't tell policy.''

A pretty specific promise. It was an important promise. I am sure had she not made that promise, even more people would not have voted for her confirmation.

She went on to say that she would ''apply the usual strong presumption of constitutionality to that law as reinforced by the doctrine of judicial deference to legislation involving military matters.''

As I mentioned earlier, it just so happened that immediately after she was confirmed it fell her lot to defend this very statute that she personally strongly opposed but that she had promised she would vigorously defend. She was given the opportunity to appeal to the Supreme Court from that terrible decision out of the Ninth Circuit, which refused to uphold don't ask, don't tell, and which ordered the military to go to trial in the middle of a war to justify the law under a newly-invented legal standard.

Faced with that choice, Ms. Kagan refused to appeal, decided to let the Ninth Circuit decision stand, and allowed this case to be sent back down to go through a trial. Clearly, to me, the military's interest was to have the issue decided as a matter of law—that this is a lawful policy and that they were empowered to carry it out in a lawful manner.

When I asked Ms. Kagan at her Supreme Court hearings recently why she blocked the Supreme Court review of the Witt case, she gave three reasons in her long answer. Some may have thought she gave a brilliant dissertation. She had notes, and she went through a long discussion.

First, she said she concluded, after conferring with her colleagues, that it would be better to wait to appeal to the Supreme Court until after the trial, because a trial would build a better factual record of the case. She said once the facts were better developed, the government might be in a better position before the Supreme Court.

Second, she said that allowing the case to go back to the district court would help the government in a future appeal because it would be able to show the Supreme Court just how invasive and ''strange'' were the demands of the Ninth Circuit that were being placed on the government in defense of the law.

I will say one thing: The Ninth Circuit demands were, indeed, strange and were utterly unworkable, as I will show.

Third, she said an appeal in the Witt case would have been ''interlocutory;'' that is, an appeal before the case had come to an end and before a final judgment had been rendered in the case. The Supreme Court prefers not to hear these kinds of appeals.

None of these explanations are credible. It is true that appellate courts, including the Supreme Court, prefer to hear appeals at the end of the case rather than in the middle, but that is a decision the Court can make for itself. It is not something the Solicitor General has to decide on the Court's behalf. And that consideration was clearly outweighed in this case.

I will note parenthetically that when the Third Circuit ruled on the Solomon Amendment, which required Harvard

and other law schools to allow the military equal access to recruit on campus, they took that as an interlocutory appeal and reversed the Third Circuit. That is exactly what should have been done here. The government had asked for an interlocutory appeal to the Supreme Court from the Third Circuit ruling that affected Harvard, and the Supreme Court agreed. It was a legal question, ripe for decision, and they decided the case. That is what should have happened.

Here we already had a split among the courts of appeals on this question. The First Circuit had already ruled as a matter of law for the government. The Ninth Circuit ruling squarely conflicted with the First Circuit, and it was also at odds with decisions from four other circuits on similar principles. Here we also had an opinion from the Ninth Circuit that presented clean questions of law—an opinion that had dramatically altered the legal landscape in 40 percent of the United States, because the Ninth Circuit encompasses 40 percent of the United States, and that was proposing to subject the military to an invasive trial process, while fighting a war, to defend the application of a nationwide military policy to an individual person.

Ms. Kagan's second explanation—that letting the case go to trial would allow the government to show just how painful a trial would be—cannot be given serious consideration. The Ninth Circuit opinion was very clear about what the government would have to show in order for the don't ask, don't tell law to survive this lawsuit. In other words, one didn't have to go through all these steps at the lower court and show how dramatically disruptive it would be. The Court had set forth explicitly what would happen. It is easy to show the Supreme Court why this is not a workable approach.

The Ninth Circuit made it very clear in their opinion that the government was going to have to justify the application of don't ask, don't tell to this specific plaintiff—not justify the law in general but to justify its application to this specific plaintiff—to prove that this specific plaintiff was going to harm the military if she were allowed to remain in the Air Force. It was also clear that such a trial was going to be disruptive to the military and that it would harm the unit cohesion Congress had set out to protect when it passed the don't ask, don't tell law in 1994.

I am not alone in reaching this conclusion. Her predecessors in the Department of Justice and in the Solicitor General's Office, the office she took over, also knew the court orders did not make sense. That is why they immediately asked the full Ninth Circuit to reconsider en banc the three-judge panel's ruling when it first came down in 2008.

They said in their brief that the Ninth Circuit decision ''creates an inter-circuit split.'' That means the First Circuit had held differently. The Ninth Circuit held a different way. We had a split of circuits which is something the Supreme Court considers when they decide to take a case.

They went on to say it created ''a conflict with Supreme Court precedent, and an unworkable rule that cannot be implemented without disrupting the military.''

The Ninth Circuit's decision, they went on to say, made the constitutionality of a Federal law setting military policy for the entire Nation ''depend on case-by-case surveys, taken by lawyers, of the troops in a particular plaintiff's unit.'' They went on to say that immediate review was ''needed now to prevent this unprecedented and disruptive process.'' That is exactly correct. The lawyers who made that argument were clearly correct.

Most importantly, Ms. Kagan's decision to send this case back for trial and not appeal doesn't make any sense because she knew a trial was going to be massively disruptive to the military. I have studied the record of the case on remand to the district court, and I have seen what has been going on since it was sent back to be tried on an individual plaintiff basis. The lawyers for the government are struggling to defend the law under these difficult circumstances. From the very first hearing before the district court, these lawyers, career lawyers, professionals in the Department of Justice, are asking the court not to allow discovery, not to allow the plaintiff to depose the soldiers and plow through all these issues in the military unit.

Here is what the career attorney for the Department of Justice said at the first hearing before the district judge after the case went back down for this trial:

> If we commence with discovery into the specific facts of this case by looking at what unit members think, we are threatening—we are jeopardizing the unit morale and cohesion . . . that the Ninth Circuit said the government—the military—has an important government interest in.
>
> So the military is in a bit of a catch-22. By proceeding to discovery, we may well have to sacrifice our important government interest.

Remember, Ms. Kagan told the Judiciary Committee—she told us just a few weeks ago—that ''building a factual record'' would be good for the government's case. Remember? I just went through that. That is what she said—it would be good. We would have a better prospect on appeal somehow. Here, the career lawyers trying to defend the military are saying that building a factual record is bad for the government because the discovery process will threaten the military's interest in unit cohesion.

As a matter of fact, I will say as an aside that I think it is quite clear that if the Ninth Circuit theory of law were to be upheld, the ''don't ask, don't tell'' policy would be put in the situation where it would be difficult, if not impossible, to enforce because everybody dismissed under that policy would then be able to have a big trial. It could go on, as this one has, for months, and they would be able to call all the unit members to ask their opinion about what they thought about this, that, and the other, even about their personal sexual activities, perhaps. This is not a practical solution. It is bad for the government. How Ms. Kagan could now say it would be good for the case, I do not know.

So clearly the career lawyer is right. The plaintiff in this case, who is represented by lawyers from the ACLU, has asked for and received access to the personnel records of the plaintiff's military unit. So now the ACLU has the personnel records of the entire unit, it appears. They have demanded depositions with other soldiers who served with the plaintiff before she was separated from the military. They have demanded the right to interview soldiers about their private lives, their personal views of their former colleague, and their private thoughts about sexuality.

The district court has wrongly, I believe—well, I will just say it this way: The district court has allowed it at every turn because the district court says this is the only way to answer the questions the Ninth Circuit ordered them to answer before a person could be dismissed under this provision of law.

But this is not just a case of bad—astonishingly bad—legal judgment. I do not think Ms. Kagan accidentally sent her client, the U.S. Air Force, into a litigator's lion's den. I do not think it was an accident. I believe she understood this was going to happen and, for some reason, she wanted it to happen.

In the very first hearing the district judge held after Ms. Kagan refused to appeal to the Supreme Court and the case was sent back for trial, the plaintiff's lawyers argued they needed to get all this discovery in the case, and they made a very interesting statement to the district judge. They said this:

> [T]he government just doesn't want any discovery. I have heard that message from the government clearly—loud and clear. [We] were asked to meet with the Solicitor General of the United States in April, and we heard that message loud and clear that discovery is a big problem; but we never heard any specifics as to why, and it boils down to they don't like the Ninth Circuit's decision.

So apparently back in April 2009, Ms. Kagan acknowledged what I think is indisputable: that discovery of this kind, where soldiers are deposed and asked about their personal views and activities, would be disruptive to the military and bad for her client, the Air Force. That is just undisputable. She was the Solicitor General then and acknowledged that.

Her decision to block an appeal to the Supreme Court was finalized in May of 2009. So before she made that decision, it does appear Ms. Kagan met with the opposing counsel in the case—the ACLU lawyers—and told them that ''discovery is a big problem.'' In other words, she told these ACLU lawyers for

the other side, who were trying to attack the military policy, that developing a factual record in this case would be bad for the government. But she told us at the committee that she thought it was going to be good for the government.

She knew in April of 2009 that a trial would be harmful to the interests of her client, but she made sure the case went back for a trial anyway. She knew that discovery would be harmful to the government's interests, but she told the Judiciary Committee, just 2 weeks ago, under oath, that she decided not to allow an appeal to the Supreme Court because she thought ''it would be better to go to the Supreme Court with a fuller record'' that would be developed at trial.

I do not know how to reconcile her testimony with the record in the case. I do not think it can be reconciled.

During this nomination process, I have expressed my concern about Ms. Kagan's record as a political lawyer—someone who has advanced a specific agenda as an adviser in the White House and someone who says she was ''channeling'' the Justice she clerked for on the Supreme Court when she encouraged him not to hear certain cases because she did not think a majority of the Court would rule the way she and her boss would like. But I do think this big decision she made as Solicitor General is, in many ways, more concrete proof—and from just a few months ago—of the reason for our concerns that this nominee will have difficulties, and maybe find it impossible, to set aside her political views and decide cases objectively and fairly.

Faced with the hard task and the solemn responsibility of defending the laws of the United States—after having promised the Judiciary Committee under oath that she would be able to uphold that responsibility, even as to this specific law she personally opposes—I am forced to conclude that Ms. Kagan did not live up to that promise and did not fulfill a solemn duty of the Solicitor General of the United States.

This is not a statute, in my view, that is likely to be overturned by the Supreme Court. In fact, we know the law's opponents, in another case, did not want to see their case be appealed to the Supreme Court. Why? They felt they would lose, in my opinion.

Let me talk about duty. Maybe that is a bit old-fashioned today. But Ms. Kagan should not have had to make a promise before the committee that she would defend this law. It is a duty of every Solicitor General to defend the laws of the United States, whether they like them or not, whether they think it is a good idea or not. Who cares what they think? They have a responsibility. They are confirmed to a position high in the Department of Justice—the position that empowers her to appear before the Supreme Court and state the position of the United States. Indeed, the Solicitor General's job has often been called the greatest lawyer job in the world. Why? Because the Solicitor General has the honor to stand before those Justices and say: I represent the United States of America. What greater honor can someone have than that, to represent this great Nation before the Nation's highest Court? Much is expected of them.

So I say she did not have to make a promise to defend this statute. It was her duty, whether she liked it or not. And it does appear—I do not see how we can draw any other conclusion—that she did not like this law and that her strategy in the case was to not get a definitive Supreme Court ruling on the constitutionality of the statute and to allow these proceedings to be dragged out in lower court and to maybe influence Congress as to whether it repeals this act. I do not know. Certainly, she despised this law. She opposed it. She wrote briefs at Harvard attacking the Solomon amendment that said that Harvard Law School had to give the military equal treatment on campus and that access could not be denied simply because she did not agree with don't ask, don't tell, which is what she was doing at Harvard.

The result of her decision showed she was willing to allow the ACLU to prowl through the our airmen and soldiers in units throughout the Ninth Circuit—covering over 40 percent of America—turning those units upside down, harming the discipline and order of those units and damaging to the military. I do not see how it can be considered otherwise.

I think it was an abdication of her duty. We are Senators here. We are elected. We have one vote. And I know our nominee was articulate and had good humor and many thought she did very well with her testimony. I was not so impressed. But I do believe you have to fulfill your duty and your responsibility, particularly after you have explicitly promised to do so with regard to this specific case, and defend the law even when it runs contrary to one's own personal views.

What if the person is now confirmed to the bench for 30, 35 years? If she were to serve as long as the judge she is replacing, I think she would serve 38 years on the Supreme Court. We have to know before they are launched forth on the Court that the nominee has the ability and the character and the integrity to defend the legal system in a proper and effective way.

This nomination is further complicated by the fact that our nominee has no experience in the real practice of law. Our nominee has never tried a case, never stood before a jury, to my knowledge, never cross-examined a witness in a trial. She never had to deal with a judge who is not feeling good, maybe irritable one day, or dealing with lawyers on the other side who are clever and tough. That is something you learn. She has never been a judge. Well, they say, that is not necessary; some great judges haven't been judges. Of course, that is true, but she has never been a judge or a real lawyer. That bothers me. Then when I see the kinds of things I am seeing here, it makes me pause, frankly. I hope all of my colleagues will look at this and take it seriously.

There are other examples of positions taken by this nominee as Solicitor General and at Harvard that are very troubling. I think the evidence shows a lack of a clear understanding of the importance of the rule of law in our country. President Obama has said he wants judges with empathy. I don't know what he means by empathy. That is not a legal standard. It is something other than law. It is more akin to politics or bias than law. He has said he wants a nominee who will demonstrate that they, in the course of their duties, will have a broader vision for what America should be. Does that mean a judge gets to manipulate the meanings of words in statutes and in our Constitution to promote this vision that they have? Were they elected to promote any vision? I don't think so. I think a judge should be a neutral umpire who puts on that robe to evidence a commitment to impartiality and call the facts of the case as they see them, faithfully following the law and faithfully finding the facts of the case. That is what a judge is all about.

I am very concerned that our nominee, whose background has been more political. Her testimony to me was too much akin to White House spin than to a clear and intellectually honest explanation of what the law and facts are in complicated situations. I didn't feel good about it. Maybe others did, but I did not.

So those are concerns I have. I hope my colleagues will specifically look at the don't ask, don't tell matter. I think it raises questions about whether the nominee should be confirmed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNEMPLOYMENT INSURANCE BENEFITS

Mr. REED. Mr. President, we are seeing over the last 12 months a slow recovery in our job market. In the last 6 months, we have seen that accelerate but not sufficiently to reduce unemployment to anything comparable to a full employment economy. This year, so far, however, we have generated 600,000 jobs in the private sector. That is in sharp contrast to January of 2009 when President Obama took office and when we were losing 700,000 jobs a month. But despite this improvement in the job market, we have a long way to go.

It is particularly troubling to be, once again, anticipating the vote tomorrow on the extension of unemployment benefits. These benefits lapsed

weeks ago. Meanwhile, millions of Americans are without access to unemployment funds—the insurance funds they paid each week out of their daily wages for the time they hoped would never come but has come—that they could rely upon for some support as they look for work.

In Rhode Island, the unemployment rate is 12 percent—absolutely horrendous. We are seeing more and more of this unemployment being long term, not a temporary situation. Nearly half—45.5 percent—of those unemployed have been out of work for more than 6 months, and in those 6 months, the excess savings one might have, the ability to cut a few corners to make it week by week, are less and less effective in simply keeping the lights on and keeping the family together. Then when you take away the unemployment compensation, people are, frankly, becoming desperate.

Yet many on the other side are completely indifferent to this. They say it is not their problem. Well, it is their problem. It is our problem. If we cannot do this, then we are failing in a basic function which is to provide support for Americans in crisis, and that is what we must do. People are looking for work. The average individual has been looking for work for 35 weeks. That is almost a year, or a big part of a year. Yet, in the midst of this economic downturn—with 14.6 million unemployed Americans—my colleagues on the other side have forced us to go through procedural hoops to get a vote on an unemployment compensation extension.

The Senate has failed on three occasions to pass this extension. It is not because there is not a majority of Senators who want to, but because procedurally, we need 60 votes to end debate and vote on the measure. We have let this program lapse for short periods and now it has been lapsed since June 2, and that is unacceptable. There is no other word for it other than obstruction—stopping something that has been done routinely on a bipartisan basis in every major job recession in this country in our lifetime. This should be a simple bipartisan endeavor.

George W. Bush had a period of time where we had a recession in the job market and we, on a bipartisan basis, extended unemployment insurance. There were no repeated delays, stretching it out, only 2-month extensions or 3-month extensions to be considered. It was done because we had to help Americans who needed the help and who had contributed to the fund through their unemployment compensation insurance. We have never failed to extend unemployment compensation while the unemployment rate was at least 7.4 percent. Today, if your State has 7.4 percent, you are in recovery. You are in great shape. We have 12 percent in Rhode Island. If I go around the country, there are too many States such as Rhode Island, with 10, 11, 12 percent unemployment. The national unemployment rate is 9.5 percent. So this is an historical anomaly. We have routinely, on a bipartisan basis, extended unemployment compensation as long as the unemployment rate has been at least 7.4 percent. But now, in the midst of a much worse national economic crisis, most of my colleagues are simply indifferent to it. I am hopeful tomorrow we will rally at least two who recognize the need to respond to the needs of their constituents.

We have extended it for much longer periods of time than the current period. In the 1970s, under Presidents Ford and Carter—again, through two Presidents, one Republican, one Democrat—3 years and 1 month of extended unemployment benefits. In the 1980s under President Reagan, yes, we extended unemployment compensation benefits without paying for it under Ronald Reagan on a bipartisan basis to help Americans for 2 years and 10 months. In the 1990s, under President Bush, George Herbert Walker Bush and President Clinton, 2 years and 6 months. So we are hardly at the point where these benefits have gone on so long that they are intolerable.

Again, routinely we have done this on a bipartisan basis, Republican Presidents, Democratic Presidents, Republican Congresses, Democratic Congresses. What I would argue has changed is our colleagues on the other side. Now we are going through another procedural vote and at the end of the day, on the final merits, this could pass by 75, 80, 90 votes, because no one wants to be accused of not extending unemployment benefits. But this whole procedural strategy of delay after delay after delay effectively has denied millions of people not just the dollars, which are important, but the small sense of security that they can rely on these funds, that there is someplace they can get help. In Rhode Island, the average weekly benefit is $360. They can get roughly $360 a week to feed their family, to provide for the essentials in life. When that is stripped away, they lose more than just $360; they lose the sense that there is anything out there that is going to help.

Beyond this procedural delay, some of my colleagues are arguing: Well, the reason we don't want to give unemployment compensation is it is a disincentive to work. I say $360 a week is not a disincentive for people to work who have worked all of their lives, making much more than that, who are desperate to work. The reality is that for every worker unemployed today who is out there looking around, there are not the jobs. In fact, there are five unemployed workers for every available job. This is not a situation where they are sort of sifting through and saying, Well, I don't like that work; that is too far for me to go. Talk to your neighbors, as we all do. They will take almost anything to get back in the workforce, and just to make more than, in Rhode Island, $360 a week. So that argument is disingenuous, but it has been raised here as if it is the gospel. It is not.

We are in a deep economic crisis. Most of it is the result of policies that my colleagues enthusiastically supported: deep tax cuts to benefit, because of the nature of the income tax, the wealthiest Americans; more than low-income Americans. Two wars unfunded. In fact, I think this is probably the first time in the history of this country where we cut taxes in a time of war rather than trying to pay for these wars. The largest expansion of an entitlement program—Medicare Part D—in the history of the country since the 1960s, unpaid for. I could go on and on and on. That has led to a myriad of other policies—lax regulation; inattention to the lack of innovation in our country; the looking on as other countries such as China and others have taken bold steps in terms of infrastructure construction; the development of new technologies, including alternate energy and high-speed electric rail transportation—the Bush administration sort of casually tended to ignore it.

I don't think anything indicates clearly the priorities of that side and this side. We have been struggling for months to try to pass an extension of unemployment compensation, but being told we have to pay for it. In the same breath, our colleagues say, But we have to extend the Bush tax cuts, including the estate tax cuts, without paying for them. We can't help people struggling to find work with $360 a week, but we can help multibillionaires with their estate taxes. I would argue that if you want to invest in productivity in America, help working people get jobs and work, and they will pay their taxes, they will work hard, they will contribute to the community.

Now we have to deal with the deficit, but the notion that the $34 billion we are talking about today in unemployment compensation is going to rank with the $3.28 trillion that these Bush tax extensions will cost the country it is not even apples and oranges. Literally and ideologically we can't pay for tax cuts, yet the deficit is the most important problem we face. It doesn't make sense, and it particularly doesn't make sense to Americans who are out there desperately looking for work.

Again, when you look at where this deficit came from, I remember in the 1990s when we stood up as Democrats without any Republican help and passed an economic program that resulted in not only deficit reduction but a $236 billion surplus. It resulted in not only economic growth but strong employment growth through the nineties.

When President George W. Bush took office, he was looking at a significant projected surplus. He was looking at solid employment numbers and a growing, expanding economy. In the 8 years he was in office, he took that surplus and not only turned it into a deficit, but he increased the national debt more in 8 years than had been done in

the previous history of the country. Then, again, to have my colleagues on the other side suddenly discover that deficits are important—it wasn't important enough for them in the nineties to stand with us and vote to reduce the deficit, balance the budget, and raise the surplus. It wasn't important enough for them in the Bush administration, which adopted programs and policies to undercut that fiscal stability and put us into a precipitous economic collapse—and now it is important.

It is important, but when we talk about this issue of unemployment compensation, it is central to this debate. Robert Bixby, president of the Concord Coalition, which has been, throughout the years, one of the most consistent in terms of fiscal responsibility, put it well when he said:

> As a deficit hawk, I wouldn't worry about extending unemployment benefits. It is not going to add to the long-term structural deficit, and it does address a serious need. I just feel like unemployment benefits wandered onto the wrong street corner at the wrong time, and now they are getting mugged.

That is what is going on. They are mugging a program the American people need. It is close at hand. It can invoke this notion of responsible deficit reduction. Where was all this responsible deficit reduction talk when they were proposing Medicare Part D, which is a huge benefit to the pharmaceutical industry—without any payments, a lot of expensive entitlement, which adds to the structural deficit, because year in and year out, when you get to be 65 years old, you qualify for Part D.

Unemployment benefits are countercyclical—people pay into it, it builds up the trust funds in the States, and then when you meet a point at which you need it, it should be there. It should be there now.

The other point that is important to make is, for every dollar of unemployment benefits there is $1.90 of economic activity. This is a stimulus measure too. At a time when we are seeing a fragile recovery, we need to put more muscle behind the recovery. Not only are we giving people a chance to make ends meet, when they take their unemployment compensation and other resources and go into the marketplace, it provides an increase in economic activity.

In fact, if we don't have increased economic activity, there is a danger this recovery will be very slow—painfully slow—and that would be unfortunate, because what we measure in terms of economic recovery is measured in American families by the opportunities to send their children to school, the opportunities to provide more for their families. If that is inhibited over months and months, then those who suffer are the American families.

There are other aspects of this. For example, the Joint Economic Committee estimated that by the end of 2010—this year—290,000 unemployed disabled workers—these are people who work but have a disability—will exhaust their benefits. If these individuals choose to drop out of the labor market and go onto the Social Security disability rolls, go through the process of being qualified and approved for disability, over the lifetime, this could result in $24.2 billion in costs, contrasted to the $721 million this year that this group would receive in extended benefits.

It is a simple sort of issue. Do we want to keep people in the workforce—at least keep them looking for work with unemployment benefits—or do we want them to say: I will give up and declare that I can't work again, and I will go see if my disability can be covered by Social Security disability insurance and, for the rest of my life, I will collect my Social Security disability, even though I would really like to work. That is another aspect of this problem.

We have a challenge tomorrow, when we greet our new colleague from West Virginia, to stand and extend unemployment benefits. Once again, if we look at history, this should have been done weeks ago on a strong, bipartisan basis, putting aside the relative politics of the moment and concentrating on what we should do for the American people. Tomorrow we will have a chance to do that, and I hope we do.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I wish to speak for about 5 or 10 minutes—not very long—about an important matter before the Senate.

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

Ms. LANDRIEU. Mr. President, I am joined by my colleague from Oregon, Mr. MERKLEY, who has been a wonderful supporter of the small business package and as a member of the Banking Committee has been very instrumental in the shaping of the jobs bill 3, the small business package, that we will be debating and hopefully voting on this week.

I wish to say first that I appreciate all the work the members of the Small Business Committee have done, both Ranking Member SNOWE and all the members of the committee, as well as the members of the Finance Committee who worked very hard to put a package together and the work that has come from the White House and Treasury to build a package that is paid for, fiscally responsible, and meaningful for small business in America.

There are many important pieces of the package, but one of the most significant in this very tough time for small businesses, Mr. President, which you know because I am sure you hear from your small businesses in Delaware, is that they would like some tax relief, if possible. They understand we are in a deficit. They understand it is difficult to provide tax relief, it is also difficult to cut spending, but they would like to see us respond with some targeted tax cuts to small business.

This package, I am happy to say, that Leader REID will be presenting in the next 24 to 48 hours has $12 billion in targeted, specific tax cuts for small businesses in America, from accelerated depreciation to zero capital gains for investments made in small businesses in the next year, incentives to invest, not in the big businesses, not in the businesses on Wall Street but in the businesses that are on Main Street in all our States and all our towns, whether they be large cities or smaller cities or tiny villages throughout, whether it is Delaware or Louisiana, Texas or New York I am pleased a centerpiece of this legislation is targeted, substantial tax cuts for business.

The other very interesting piece of this bill is a whole series of things on which the small business community has worked together in a very bipartisan fashion for strengthening programs within the SBA, the Small Business Administration; it is not a very big agency, it is a small agency, but it can be muscular. If it is provided the right tools and with the right shaping of those muscles, it can be actually very effective in lifting small businesses to a better place.

With Senator SNOWE's help and support, we have managed to come out with several provisions, one of which is the doubling of the loan limits for the 504 and 7(a) programs, which together have the potential to leverage about $30 billion in lending. We have reduced the fees—eliminated the fees, actually, for banks. We have increased the guarantee from 75 percent to 90 percent. We have expanded the amount of loans, the limit, people can ask for to provide greater access to capital. It is widely popular with the small business associations, and we have their broad support.

Again, small businesses in America have seen their credit lines shrinking or evaporated. They have seen their credit card companies charging higher interest rates and demanding full payment on outstanding balances.

It is important for us to recognize that this recession is not going to end without some businesses hiring again. They do not hire on wishes and prayers. They hire on bottom-line finances and the hope that things will get better. Both are important—bottom line finances, access to capital, and the hope that things will be better. That is what this bill brings—bottom line support and hope that things can be better.

That is a big portion of our bill. Included in that is a very important component of increasing exports. When

people say in the surveys: We need to increase demand, I agree. One way we can increase demand is to open exporting opportunities for our small businesses.

I do not have it with me, but I have used it many times, a chart that shows only a small sliver that represents small businesses that export. Most of our products are exported and services sold by big companies. When people say to me: Senator, what can the Federal Government do to help open markets or to give us more customers, one thing we can do is to strengthen programs at the Federal level and the State level that give technical assistance and support for our small businesses to export. It is very important to Senator SNOWE. It is very important to Senator LEMIEUX from Florida. It is very important to Senator KLOBUCHAR from Minnesota, who has been a great advocate for this provision for exports, and others as well. That is in the bill.

The final piece I am going to speak about—and then I will turn it over to the Senator from Oregon, who has worked so hard on this particular proposal—is, in addition to the $12 billion in tax cuts targeted for small businesses in America, in addition to the strengthening of the SBA direct lending programs that are so important to so many colleagues on both sides of the aisle, there is a $30 billion lending program to small businesses. It is not a government program but a private sector-based lending program, using the great and powerful network of our community bankers. Not our big banks, not the Wall Street banks, not the hedge fund managers about whom we have heard so much—usually bad—but our own very familiar partners at the local level, our community banks.

This program would take $30 billion and basically pass it through to small businesses that are looking for capital. I have people come into my office, representing hundreds of small businesses, saying: Senator, we don't have the capital we need to expand, and we have been in business X number of years. If I could just get a loan for $5 million or $10 million or get a capital line for $20 million, I could expand my business.

If we do not find a way to get more money into the hands of small businesses—this is not a banking program. It is not like the old bailout program we did for banks. This is about a liftup, a helping hand to small businesses in America.

With that program, amazingly, it encourages more lending to small businesses, it is voluntary, and it actually makes money for the Federal Treasury. Again, it is voluntary. It is available to all small banks in good standing to encourage them to use this capital to lend to small businesses.

I am going to turn it over to the Senator from Oregon. Before I do, I would like to call attention to the many strong endorsements we have gotten, starting with the Conference of State Bank Supervisors:

> The proposals—the Small Business Lending Fund and the State Small Business Credit Initiative—will provide much-needed access to capital support small business lending, the lifeblood of our national economy.

That is Neil Milner, president and CEO of that organization.

I will read another one from John Arensmeyer, founder and CEO of Small Business Majority:

> The Small Business Lending Fund will create a program that will provide up to $30 billion in capital to smaller banks to spur lending to small businesses and help create new jobs. There's no ''silver bullet'' that will put small business owners out of the financial hole . . . but these initiatives are an important piece of the overall plan to help revive our struggling economy. . . .

Finally, from Michael Grant, president of the National Bankers Association:

> The Obama Administration—continuing its efforts to lift the country out of a two-year recession—has hit a home run with its proposed $30 billion Small Business Lending Fund. This is not a bailout to small business and medium-sized banks; it is, instead, a true investment in a brighter future for America's working class.

Again, I turn it over to the Senator from Oregon. I thank him very much for his help in shaping this proposal, expanding it, and promoting it. It promotes itself based on its merits. We are always happy to have his voice enter this debate.

I yield the floor for my colleague.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I am delighted to partner with my colleague from Louisiana. Senator LANDRIEU has been a passionate and effective advocate for small business across this country. She has worked incredibly hard to drive through this small business jobs legislation, recognizing that the success of our economy is going to rise or fall on the success of our small businesses.

That is what brings us together tonight. We have come to talk about the small business lending fund, which is an essential component of assisting our small businesses.

Small businesses employ one-half of our Nation's workforce. However, less than one-third of small businesses today are reporting their credit needs are being met. Indeed, 59 percent now rely on credit cards to finance their daily operations. That is an increase of about 15 percent from where we were at the end of 2009.

I can tell my colleagues that at every townhall meeting I hold, folks stand to talk about how their credit lines have been cut or they have a business opportunity for which they normally could easily get a loan from a longstanding banking partner, but they are not able to get that loan. Often, the reason the banks cannot make the loan is because they are at their leverage limit. There are legal limits for every dollar they hold, how many can they lend out. If they are at that limit, they cannot make a new loan no matter how good the opportunity.

This is a losing situation because our community banks are right on Main Street. They see and know the opportunities. They understand the capabilities of individual entrepreneurs and managers, so putting that expertise to work is going to fuel job growth in this Nation. But we can't put it to work if the banks are unable to lend or are at their leverage limit.

The Small Business Lending Fund will proceed to inject liquidity into our economy, and that is like oil into an engine—a job-creating engine—to the tune of as much as $300 billion in additional lending to small businesses on Main Street, and this will occur under the Small Business Lending Fund without any dollar of subsidy from the U.S. taxpayer.

Indeed, the Congressional Budget Office has studied this proposal and has recognized and reported that it will save $1 billion to taxpayers over the next 10 years, and that is just from the earnings of the payments that the banks will make back to the funds that are injected as additional capital into our community banks.

But think about this: Every small business that is able to see an opportunity because it can gain access to credit is also going to make money on that proposition. When they make money, they pay additional taxes. CBO doesn't score the additional taxes, but recognize that in addition to the $1 billion of savings on interest payments, there will be all the benefits that will flow from additional jobs—additional taxes paid on the income from those jobs, additional profits to small business, additional revenue from those profits. So the real return is even greater to the taxpayer.

But most importantly we are creating jobs, and that is a return that is hard to measure. When a family has a job, they can diminish their reliance on every other program. The most important foundation of a family is a good job, and that is what the Small Business Lending Fund is all about. It does indeed have prominent endorsements, as my colleague mentioned: the Independent Community Bankers of America, representing 5,000 community banks on Main Street which are having to bypass the opportunities they are seeing because they are at their leverage limit. Recognize that they can make loans, which is good for them, good for small businesses, good for their communities and certainly great for the families who get the additional jobs. Also, the National Bankers Association, the National Small Business Association, the National Association for the Self-Employed, the Small Business Majority, and so on and so forth.

Let me give one example from Oregon. John and his business partner have owned a small retail store in Portland, OR, for over 25 years. It is a store I have visited often. Because of lackluster consumer spending, John has made a lot of sacrifices to keep that business afloat during this recession. He has had to reduce his staff, cut

the hours the shop is open, and he and others have had to take pay cuts. But to add insult to injury, his bank threatened to drop his line of credit.

John has never missed a payment, never had a late payment, but in this process of reducing exposure or reducing the required leverage limits, banks are cutting lines of credit, and John's line was being cut. Finally, after negotiation, they agreed to renew his line of credit every 90 days but every 90 days charge a fee, and on many occasions to raise the interest rate.

He has been looking for a new lender who will work with him and not against him, but that is hard to find in this economy, where lender after lender is affected by the same constraints. This story is repeated, different versions, hundreds of times throughout Oregon, and thousands of times throughout this Nation.

How would a Small Business Lending Fund work? Essentially, it capitalizes the community banks, so with that additional capital they can make more loans. If they get more loans out the door, then the repayment rate—the dividends they would pay back to the taxpayers—is reduced to as low as 1 percent. If they do not get loans out the door, the payments go up to as high as 7 percent. So there is a significant incentive to take these funds, after a bank is recapitalized, and get them out the door.

That addresses several of the challenges folks have raised. There has been concern about banks that might hoard cash and say: Well, we will prepare in case some assets are devalued in the future or that banks might say: We will wait until a better time, when everything is surging forward. Well, things won't surge forward unless we get lending out to small businesses. That is why this structure of incentives is critical.

The banks that will qualify are banks that have CAMELS ratings, which means capital adequacy, asset quality, management, earnings, liquidity, and sensitivity—or exposure to market risk. So a bank that is in deep trouble isn't going to be in a position to take advantage of this. But banks that are sound and healthy will, and therefore this makes it a good investment, an investment that has significant return to the taxpayer but, more importantly, a big return to our communities.

I would also note that this will go hand in hand with the program to make additional grants to State-based small business programs. My colleagues, Senators LEVIN and WARNER, have been very involved in helping to forge that program. These things go together. Community banks on Main Street will see opportunities and State-based small business programs will see opportunities. They probably will see the same opportunities. These will work together to take us out of this recession.

I wish to read a note that I received:

Dear Senator Merkley: Overall, I believe the majority of financial support under TARP went to the large investment banks, insurers, FNMA, FHLMC and other giant institutions on Wall Street. It is now very important to revive the economy that the government assist Main Street, which includes community banks, if we are to have job creation. Jobs are created by small business that bank at community banks.

And the writer goes on:

As a community banker in Oregon, I urge you to retain the $30 billion small business lending fund. . . . Community banks are well-positioned to leverage the SBLF and have established relationships with small businesses in their communities to get credit flowing quickly. Leveraging the $30 billion funds with community banks would potentially support many times that amount in loan volume to small businesses—as much as $300 billion in additional lending.

The writer concludes:

Banks that increase their small business lending by certain threshold percentages will pay reduced dividend costs, ensuring that their incentive to lend matches their great capacity to do so.

Thank you very much, Sincerely Tom.

That was a letter from Tom of M Street Bank.

I thank the many colleagues who have put themselves behind this idea and supported it. An earlier rendition of this idea was called ''Banking on our Communities'' and had support from Senators CARPER, HAGAN, KERRY, LEVIN, PRYOR, STABENOW, and MARK UDALL, and I wanted to mention that they have been sponsors of that legislation.

I urge my colleagues to stand for small businesses, stand to provide a solution to the problem of liquidity and access to loans that is plaguing our small businesses, stand to help not just your community banks but your community businesses and your families who will benefit from the jobs that it will create.

I thank my colleague for her passionate and effective leadership on this particular issue and for her leadership on our Small Business Committee.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank my colleague, and let me add a few words to that wonderful explanation. Again, what we are on the floor talking about here—the jobs 3 bill, the small business bill—is a lending program for small business. This is not a bank bailout. It is not a big bank bailout. It is not a medium-sized bank bailout, It is not a small-sized bank bailout. It is not for banks. It is for small businesses.

We are using healthy banks, not troubled banks, as a conduit to reach small businesses so they do not have to rely on high rates through a credit card company that is impersonal and not interested in their business but just the bottom line. They do not have the home equity that they used to have, as you know, either in Delaware or Louisiana or Oregon or Texas.

I think in America we want to encourage healthy relationships between our small businesses and our local banks. Only small healthy banks can participate in this voluntary program on behalf of small businesses in their communities. Ninety percent of community banks are less than $1 billion, and you can only participate in the Small Business Lending Program if you are below $10 billion. So none of the big banks can even qualify for this.

As the Senator from Oregon said, there is not going to be an end to this recession any time soon if we don't, in this Chamber, figure out a way to get low-cost capital into the hands of small business. We don't have many choices. We could issue some more credit cards to them and let them pay 15, 16, 17, 24 percent. We can ask them to go back and get equity out of their homes, which has all but dried up, and not through any fault of their own, or we could give direct lending through the Small Business Administration.

Some people have trouble with the Federal Government acting as a direct lender, and I can understand that. It is not what we do. We are not a bank. But there are banks out there—there are 8,000 community banks—many of which are healthy, and with a little bit more capital and a partnership with the Federal Government, they could turn around and lend money to businesses that desperately need it.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of small business organizations I received from the Small business Access to Credit Coalition.

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

(See exhibit 1.)

Ms. LANDRIEU. Mr. President, I am going to read a few of these organizations into the RECORD at this time. This is a very market-based, private-sector approach to solving this problem, and that is why the American Apparel & Footwear Association, the American Hotel & Lodging Association, the American International Automobile Dealers Association, the Associated Builders & Contractors, Heating, Airconditioning & Refrigeration Distributers International, and we said the Independent Community Banks of America, but how about the Independent Electrical Contractors, the International Council of Shopping Centers, the Main Street Alliance, the National Association of Women Business Owners—Los Angeles, and I could go on and on and on.

There are hundreds of organizations that support this $300 billion Small Business Lending Fund. Again, it leverages up to $300 billion of potential loans to small businesses right here in America to create the jobs we need to move us out and past this recession to higher ground and happier times. We can't wait to get there, but we are not going to get there by peddling in place. We have to move forward.

This is a bold proposal, but it is very much based on common sense. It is easy to understand, with clear parameters for understanding it. It is using the great asset of community banks to

get low-cost capital into the hands of small businesses—shoe stores, retailers, cleaners, grocery stores—that can then start the hiring of one or two or three extra people. All of that is going to add up to more consumer demand. As people have paychecks, they can go spend them, increasing demand.

This is economics 101. It is very simple. It is bold, it is simple, and I believe it will work. It is voluntary. It is for healthy banks only—for community banks only. It has nothing to do with Wall Street, hedge funds or bailouts. It has everything to do with job creation on Main Street in America, and more than 100 small business organizations are supporting this initiative.

I thank the Members of the Senate, both Democrats and Republicans, who have been very supportive. We are grateful for the wonderful testimony and endorsements we have received from these very powerful organizations and we look forward, after we have the vote on unemployment sometime tomorrow, to getting back to the business of ending this recession. We have all had about as much of it as we can take.

We want to move to stronger times, to happier times. We are only going to do that by giving small business substantial and targeted tax cuts and a lending program that they can work for them and the businesses they want to serve and service every day on Main Streets throughout America.

EXHIBIT 1

SMALL BUSINESS ACCESS TO CREDIT COALITION

(February 17, 2010)

DEAR SENATOR: Access to credit is a critical issue facing small businesses today. The undersigned organizations, representing millions of small business owners in every industry sector, were very disappointed to learn that only one provision related to expanding small business access to credit was included in the draft legislation offered by Senators Baucus and Grassley, the ''Hiring Incentives to Restore Employment Act.'' Furthermore, none of the provisions aimed at improving the Small Business Administration (SBA) lending programs are currently being considered in Majority Leader Reid's latest proposal. We are concerned that if the Senate fails to listen to the needs of small businesses and address the credit crisis, a tremendous opportunity to help create new, sustainable jobs in 2010 and beyond will be lost.

We urge your support for appropriations to extend the SBA loan provisions of the American Recovery and Reinvestment Act (ARRA) through the end of December 2010. The depletion of funds last fall is proof that the SBA programs were, and continue to be, critically important for our nation's creditworthy entrepreneurs. An additional $354 million in appropriations is needed to fund the extension of the higher guaranty percentages and waiver of borrower fees for the balance of the fiscal year.

Additionally, we urge your support for an increase in the maximum loan size and the maximum guaranteed portion of SBA loans. Senators Landrieu and Snowe have introduced legislation that would increase the maximum size of SBA 7(a) and 504 loans from $2 million to $5 million. This legislation would also provide a commensurate increase in the statutory maximum guaranteed portion of SBA 7(a) loans. Moreover, the CBO has determined that their legislation, S. 2869, will have no impact on spending or revenue. These levels are recommended by the Administration, have bi-partisan support and we urge your support as well.

By including these provisions in upcoming legislation aimed at spurring new job creation, there is the potential to leverage an additional $16 billion in SBA lending in 2010. According to Federal Highway Administration data, federal spending on highway programs can generate about 34,100 jobs for every $1 billion spent. Small businesses can generate the same rate of job creation, except that small businesses have the ability to create new, sustainable jobs in every local community. Therefore, by acting on these recommendations, the Senate will help increase small business lending that will result in over 545,000 sustainable new jobs in the next year.

We urge you to act quickly so that we can continue to realize the SBA lending momentum we saw in 2009. Small businesses cannot be the engine of our economy if they continue to face unrelentingly tight credit markets. The Senate must include these important provisions in the job creation bills currently pending in order to restart the flow of credit to America's small businesses or else these entrepreneurs will be left to sit on the sidelines.

Respectfully,

American Apparel & Footwear Association; American Bankers Association; American Foundry Society—California Chapter; American Hotel & Lodging Association; American International Automobile Dealers Association; Associated Builders & Contractors; California Association for Micro Enterprise Opportunity; California Association of Competitive Telecommunications Companies; California Cast Metals Association; California Chapter of the American Fence Contractors Association; California Employers Association; California Fence Contractors Association; California Hispanic Chamber of Commerce; California Metals Coalition; California Public Arts Association, Inc.; Council of Smaller Enterprises (Ohio); Engineering Contractors Association; Entrepreneurs Organization Los Angeles; Fashion Accessories Shippers Association; Flasher/Barricade Association; Golden Gate Restaurant Association; Greater Providence (RI) Chamber of Commerce; Heating, Air Conditioning & Refrigeration Distributors International; Independent Community Bankers of America; Independent Electrical Contractors; Independent Waste Oil Collectors and Transporters; International Council of Shopping Centers; International Franchise Association; Main Street Alliance; Marin Builders' Association; Marine Retailers Association of America; Monterey County Business Council; Napa Chamber of Commerce; National Association for the Self-Employed; National Association of Development Companies; National Association of Government Guaranteed Lenders; National Association of Manufacturers; National Association of Women Business Owners—Inland Empire; National Association of Women Business Owners—Los Angeles; National Automobile Dealers Association; National Cooperative Business Association; National Council of Chain Restaurants; National Council of Textile Organizations; National Federation of Filipino American Associations; National Gay & Lesbian Chamber of Commerce; National Marine Manufacturers Association; National Ready Mixed Concrete Association; National Restaurant Association; National Small Business Association; North American Die Casting Association—California Chapter; North Carolina Bankers Association; Northern Rhode Island Chamber of Commerce; NPES—The Association for Suppliers of Printing, Publishing and Converting Technologies Oakland Metropolitan Chamber of Commerce; Oregon Small Business for Responsible Leadership; Peninsula Builders Exchange of California; Plumbing-Heating-Cooling Contractors of California; Recreation Vehicle Industry Association; Recreational Vehicle Dealers Association; Rhode Island Small Business Summit Committee; Sacramento Asian Chamber of Commerce; San Francisco Builders Exchange; San Francisco Chamber of Commerce; San Francisco Small Business Advocates; San Francisco Small Business Network; Small Business Association of Michigan (SBAM); Small Business Association of New England (SBANE); Small Business California; Small Business Majority; Small Manufacturers Association of California; South Carolina Small Business Chamber; Spa and Pool Industry Education Council of California; SPI: The Plastics Industry Trade Association; The Financial Services Roundtable; The Hosiery Association; Travel Goods Association; Tree Care Industry Association; Urban Solutions—San Francisco; U.S. Chamber of Commerce; U.S. Hispanic Chamber of Commerce.

Mr. MERKLEY. Mr. President, I again thank my colleague for her leadership. We together as a Senate need to stand with our small businesses so we can revive our communities, restore our economy and create jobs for our families. I thank the Senator again for the terrific job she is doing.

MORNING BUSINESS

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

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

IMPEACHMENT TRIAL COMMITTEE RULES

Mrs. MCCASKILL. Mr. President, on April 13, 2010, the Impeachment Trial Committee on the Articles of Impeachment Against Judge G. Thomas Porteous, Jr., adopted two rules to govern aspects of its pretrial proceedings. On July 14, 2010, the committee adopted two additional rules.

The first rule, adopted pursuant to rule 26.7(a)(1) of the Standing Rules of the Senate, establishes seven members as the committee quorum. In the interest of fairness and continuity, and consistent with prior impeachment trials, the committee adopted this rule and established a ''natural'' quorum of at least seven of its members to receive evidence and conduct the business of the committee.

The second rule delegates the authority of the committee to the chairman