

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3816, a bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN), is necessarily absent.

Mr. KYL. The following Senator is necessarily absent, the Senator from Alaska (Ms. MURKOWSKI).

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—53

Akaka	Franken	Mikulski
Bayh	Gillibrand	Murray
Begich	Goodwin	Nelson (FL)
Bennet	Hagan	Pryor
Bingaman	Harkin	Reed
Boxer	Inouye	Reid
Brown (OH)	Johnson	Rockefeller
Burr	Kaufman	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Shaheen
Carper	Kohl	Specter
Casey	Landrieu	Stabenow
Conrad	Lautenberg	Udall (CO)
Dodd	Leahy	Udall (NM)
Dorgan	Levin	Webb
Durbin	McCaskill	Whitehouse
Feingold	Menendez	Wyden
Feinstein	Merkley	

NAYS—45

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Baucus	Ensign	McConnell
Bennett	Enzi	Nelson (NE)
Bond	Graham	Risch
Brown (MA)	Grassley	Roberts
Brownback	Gregg	Sessions
Bunning	Hatch	Shelby
Burr	Hutchison	Snowe
Chambliss	Inhofe	Tester
Coburn	Isakson	Thune
Cochran	Johanns	Vitter
Collins	Kyl	Voinovich
Corker	LeMieux	Warner
Cornyn	Lieberman	Wicker

NOT VOTING—2

Lincoln	Murkowski
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The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2010—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the cloture motion, which the clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move

to bring to a close debate on the motion to proceed to Calendar No. 107, H.R. 3081, the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010.

John D. Rockefeller, IV, Byron L. Dorgan, Carl Levin, Dianne Feinstein, Jack Reed, Mark R. Warner, Patrick J. Leahy, Michael F. Bennet, Barbara Boxer, Benjamin L. Cardin, Charles E. Schumer, Patty Murray, Debbie Stabenow, Robert P. Casey, Jr., Christopher J. Dodd, Daniel K. Akaka, Harry Reid.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 3081, the Department of State, Foreign Operations, and Related Programs Appropriations Act of 2010 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

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

The yeas and nays resulted—yeas 84, nays 14, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—84

Akaka	Feingold	McConnell
Alexander	Feinstein	Menendez
Baucus	Franken	Merkley
Bayh	Gillibrand	Mikulski
Begich	Goodwin	Murray
Bennet	Graham	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reed
Boxer	Harkin	Reid
Brown (MA)	Hatch	Roberts
Brown (OH)	Hutchison	Rockefeller
Brownback	Inouye	Sanders
Bunning	Johanns	Schumer
Burr	Johnson	Shaheen
Burr	Kaufman	Snowe
Cantwell	Kerry	Specter
Cardin	Klobuchar	Stabenow
Carper	Kohl	Tester
Casey	Kyl	Udall (CO)
Cochran	Landrieu	Udall (NM)
Collins	Lautenberg	Vitter
Conrad	Leahy	Voinovich
Corker	LeMieux	Warner
Dodd	Levin	Webb
Dorgan	Lieberman	Whitehouse
Durbin	Lugar	Wicker
Ensign	McCaskill	Wyden

NAYS—14

Barrasso	DeMint	Risch
Chambliss	Enzi	Sessions
Coburn	Inhofe	Shelby
Cornyn	Isakson	Thune
Crapo	McCain	

NOT VOTING—2

Lincoln	Murkowski
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The PRESIDING OFFICER. On this vote the yeas are 84 and the nays are 14. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

CHANGE OF VOTE

Mr. ALEXANDER. Mr. President, on rollcall vote No. 243 I voted "nay." It

was my intention to vote "yea." I ask unanimous consent that I be permitted to change my vote which will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business.

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

MONTFORD POINT MARINES

Mr. BURRIS. Mr. President, I take the floor today to pay tribute to a group of Americans that blazed a trail, people who helped to shape the history we share, and whose contributions deserve recognition at the highest levels.

There has been no war fought by or within the United States in which African Americans did not participate.

The war for our independence featured all-Black units in Rhode Island and Massachusetts. During the War of 1812, about one-quarter of the Navy involved in the Battle of Lake Erie was Black. Nearly 190,000 African Americans fought for their own freedom in the Civil War. In World War I, over 350,000 Black men served on the Western Front.

But prior to 1941, Black servicemen were denied the honor and glory that comes with uniformed service, and their contributions went largely unnoticed. The units were segregated. Black infantry divisions hardly saw the battlefield. They served our Nation with honor, but our Nation did not honor their service.

But on June 25, 1941, President Franklin Roosevelt changed all that. Executive Order 8802 prohibited racial discrimination in the Nation's military. It was the first Federal action to promote equal opportunity in the United States.

Immediately, people of color answered the call and joined all branches of the service. Soon, the very first Black U.S. marines began training at Camp Montford Point in North Carolina. These men would become the first Black drill instructors, the first Black combat troops, and the first Black officers the Marine Corps had ever seen.

More than 19,000 Black marines served in the Second World War. Some, like SGM Edgar Huff and SGM Louis Roundtree, served in Korea and Vietnam as well. They earned decorations such as the Bronze Star, the Silver Star, and the Purple Heart.

All of the Montford Point marines sacrificed for their country, and for that they deserve our deepest gratitude. But they also did far more than sacrifice on the battlefield. They broke down barriers. Their names may not be as familiar as Washington, Jefferson or Lincoln. But their contribution to the American story deserves more than our respect. Through their actions, they changed the face of the U.S. military.

They deserve our praise and recognition.

Last fall, I introduced S. 1695, a bill to award the Congressional Gold Medal to the Montford Point marines. I urge my colleagues to move forward and honor these fine men and women. Every American has benefited from their sacrifice, their bravery, and their leadership. And every American should learn from their fine example.

Unfortunately, time is not on our side. Every day, approximately 900 brave American souls who served in World War II pass away. We should honor our greatest generation while we have the chance to look them in the eye and thank them.

Since the day a few brave men began their training at Camp Montford Point more than half a century ago, the U.S. Marine Corps has been transformed into a stronger, more diverse fighting force. The legacy of the Montford Point marines represents what is best about this Nation's history. There is a proud chapter in the continuing American story.

As I address this Chamber today, I am surrounded by the towering monuments to our Founding Fathers, and the memorials to those who have fought and died so that we might live free. It is time to make the Montford Point marines a part of that immortal history—to award them the prestigious Congressional Gold Medal.

I ask that my colleagues join with me in celebrating these American heroes.

We need to do it before it is too late, and we will not have any of them to look into the eye and tell them: Thanks for your service. Thanks for standing up against some of the toughest situations on the battlefield but even tougher situations as Blacks on the homefront.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I commend my friend, the Senator from Illinois, for his comments, and I associate myself with his effort. This is recognition that is long overdue. I am pleased to support his efforts in this area. It is a part of American history that has not received appropriate recognition, these individuals' service to and in defense of our country. I believe strongly that we need to take action on this, as the clock for many of these individuals, as they get advanced in age, is ticking.

The Senator from Illinois will be leaving this Chamber at the end of this year. He and I came in together, as did the Senator from New Mexico. It has been a great honor of mine to serve with him. I consider Senator BURRIS a dear friend. I know there will be time for a more formal process, but I simply wish to say on this matter and countless others over the 2 years we have served together, it has been a real pleasure. I look forward to—perhaps not in this Chamber—other opportunities for us to serve and work together for many years to come.

(Mr. BURRIS assumed the chair.)

(The remarks of Mr. WARNER pertaining to the introduction of S. 3853 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WARNER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, I commend the work of my colleague from Virginia, Senator WARNER, on a very important set of challenges we have.

I ask unanimous consent to speak as in morning business.

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

#### AFGHANISTAN AND PAKISTAN

Mr. CASEY. Mr. President, the conflict in Afghanistan enters its ninth year next month. Over the past few months, the United States has experienced the most casualties since the war began in 2001. In June, 60 U.S. troops were killed; in July, 66; in the month of August, 55 service members gave their lives.

We always recall the words of Lincoln when we recall those who are killed in action, those who gave, as he said, the last full measure of devotion to their country. These are difficult days, and that is an understatement—very difficult days for the American people and especially for the families and the troops. I also believe these are days that have tried the patience of Americans and tested the resolve of our commitment to this conflict.

At a minimum, we—when I say "we," I mean those Members of the U.S. Congress—we owe the families of these service members every assurance that their elected officials, their elected representatives in Washington are vigilantly exercising oversight of the war. We also owe it to them that we ask and demand answers to very tough questions and, finally, that we are doing everything we can to make sure we get this policy and this strategy that goes with it right.

Since I last spoke on the floor on the issue of Afghanistan, there have been many important developments with respect to the war. First, we have been confronted with new revelations of corruption by the Afghan Government—more about that in a moment—second, reports of ballot box stuffing and voter intimidation in the parliamentary elections earlier this month have raised long-held doubts by the Afghan people as to the durability of the country's democratic experiment. The number of IED attacks has increased, and while deaths due to the IEDs are, in fact, down, the number of injuries is, unfortunately, up. ISAF has also begun operations in Kandahar. We saw a story about this yesterday. This is notable because this is reportedly the first operation to be primarily made up of Afghan troops.

I wish to spend a couple moments today to draw attention to the international response to the floods in Paki-

stan. The United States has played an important leading role. We were the first, and with the most assistance, of any country. While this may be the case, we also have a responsibility to encourage generosity from the public and private sectors in the international community.

I mentioned before the issue of corruption in Afghanistan. This issue has nationwide implications and could serve to undermine the totality of our efforts in Afghanistan. Our troops are fighting and dying to help extend the reach of the Afghan Government outside of the capital of Kabul to show the Afghan people that their government has a monopoly on the use of force and is capable of providing goods and services to its people. But we need to put this very simply. We cannot be complicit. Our forces, our government, cannot be complicit in helping to extend the reach of a corrupt government. Afghanistan is a sovereign country, and if the fight against corruption is going to be effective, Afghans—Afghans—can and must own the process.

The United States should support the work of the Major Crimes Task Force and the Special Investigations Unit, but, frankly, the track record to date has been very disappointing, and unless serious progress is made, support for U.S. engagement in Afghanistan will be seriously eroded.

As a former auditor general of Pennsylvania who oversaw the auditing of government programs at the State level, I perhaps have a heightened sensitivity to the vital role transparency and accountability have in government—in any government. The importance of these basic elements of a representative democracy is especially compelling when the lives of courageous Americans, ISAF, and Afghan forces are, indeed, on the line.

Just yesterday, the Wall Street Journal reported that there is a U.S. criminal investigation into President Karzai's older brother Mahmood, and prosecutors are trying to determine whether they can bring charges of tax evasion, racketeering, or extortion against him. Reportedly, he will travel to the United States this week to amend his tax returns. But these are serious allegations that we read about time after time. I have spoken and many in this Chamber have spoken about the allegations of corruption against Ahmed Wali Karzai, who has been implicated in local corruption schemes involving the opium trade. These are allegations, they are charges, but they are charges that are very serious and potentially damaging to the overall U.S. effort in the country, as it strikes to the heart of trust in the Afghan Government. Without this trust from Afghans and from the international community, I am concerned that support for U.S. efforts in Afghanistan will erode.

On September 18, Afghans went to the polls to vote for a new parliament. This has also become a serious cause

for concern. On Sunday, the Afghan election officials ordered recounts in seven provinces. A government anti-fraud elections watchdog has received more than 3,500 complaints—3,500 complaints—about this election. They are concerned that up to 57 percent of these complaints could change the outcome of the vote. The Free and Fair Election Foundation of Afghanistan, the main independent Afghan observer group, observed ballot box stuffing in 280 voting sites in 28 provinces. We don't expect elections in a developing country to be perfect, especially a country that is in a war zone, but these reports are alarming, to say the least, because they indicate that not enough progress has been made over the past 9 years to create an Afghanistan in which the people resolve their own differences through politics and not violence.

Next let me move to the question of security, which is so fundamental to our strategy. I have sought to highlight the threat posed by ammonium nitrate, the fertilizer that is a key ingredient in the improvised explosive devices in Afghanistan. According to a recent report from the Joint Improvised Explosive Device Defeat Organization, known by the acronym JIEDDO, there have been 1,062 effective IED attacks against coalition forces in 2010 that killed 292 soldiers and wounded another 2,178 others. In the first 8 months of 2009, there were 820 such attacks that killed 322 and wounded 1,813. So while the number of deaths in the comparable period of 2009 versus 2010 may be down—instead of it being 322 deaths in those 8 months, it is 292—even though the number of deaths is down, the number of wounded, the number of injuries has risen dramatically in 2010.

It is essential that we highlight this threat and support U.S. and international efforts to crack down on the proliferation of dangerous chemicals such as ammonium nitrate that can be used in IEDs. I sponsored a resolution which was passed by unanimous consent—which we know is hard to do in this body these days—calling for increased focus by the Governments of Pakistan, Afghanistan, and Central Asian nations to effectively monitor and regulate the use of ammonium nitrate fertilizer in order to prevent terrorist organizations from transporting ammonium nitrate into Afghanistan. As we know, a lot of the inflow, a lot of the movement of this precursor chemical that is used in IEDs comes from Pakistan into Afghanistan. As a show of bipartisan strength on this resolution, Senators KYL, SNOWE, REID, and LEVIN—two Democrats, two Republicans—were original cosponsors of this resolution. I also had language inserted into the foreign operations funding bill which requires the State Department to report on its efforts to encourage Pakistani assistance on this issue. We must remain vigilant and persistent to address this ongoing problem. This is

about protecting our troops from the horror of an IED attack. We must do all we can to minimize the threat to our brave men and women fighting for us in the field.

At a different level, at a strategic level, ISAF has launched Operation Dragon Strike, a joint operation with Afghan forces which will look to eradicate Taliban elements in Kandahar. This operation could mark a crucial and critical turning point in the war, and we will be watching closely in the coming weeks to gauge the progress as it moves forward. This operation is notable as there are more Afghan troops than ISAF troops on the ground, and this is indeed an encouraging sign that the training of the Afghan National Army is beginning to reap benefits. That is a bit of good news—more good news—as it relates to the training of the Afghan Army; not such good news—in fact, some bad news—as it relates to the training of the Afghan National Police.

Let me move finally to the floods in Pakistan. I wish to draw attention to the devastating humanitarian crisis that continues to plague Pakistan after the flood. This has affected millions of people in Pakistan across the country—maybe not always directly but in some way or another through displacement, death, injury—in so many ways this has adversely affected the people of Pakistan. This is the worst natural disaster in the history of the country.

To assist the people of Pakistan during this difficult time, the United States has provided more than \$340 million to support immediate relief and recovery efforts. The United States has provided food, infrastructure support, and air support to transport goods and rescue thousands stranded by the floods.

These floods will require a substantial international commitment of assistance. The United Nations has issued appeals, but the response from the international community has been, in a word, weak, and that might be an understatement. Private contributions have slowed to a trickle.

Last week, we heard from Cameron Munter, the President's nominee to be Ambassador to Pakistan, who described at our hearing in the Foreign Relations Committee the administration's plans to bolster support for the Pakistan relief fund. The American response to the flood has been substantial, but we can and must do more to rally the international community and the private sector to be generous in Pakistan's time of need. The Pakistani-American community has led an important effort to draw attention to the devastation wrought by the flood. We should bolster their work and use our platforms as public officials to broaden their appeals for help.

So we have many challenges in this area to get our strategy right in Afghanistan as it relates to governance. Increasingly, that word really means

anticorruption, mostly—obviously on security in terms of what our strategy is but also in terms of training the Afghan National Army and police so that we can eventually draw down our troops and have them take over the fight and govern their own country.

Finally, on development, which I didn't speak much about today, there is the ability for the Afghans to develop the infrastructure and support they need to govern themselves, whether that is services, water and sewer—any indication, any element any country would need to have in place so that people can live in peace and security. Finally, there are the efforts we are making to help the people of Pakistan at a time of great need. We have all kinds of important humanitarian reasons to be helpful and to show solidarity with suffering people, and we also have several security imperatives that come into play when it comes to the flood and the aftermath.

So for all of these reasons, it is critically important to continue to debate and discuss and even argue about what our policy in Afghanistan should be. That is the least the Senate can do when our troops are fighting and sometimes dying in the field to carry out this mission.

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

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

#### FOR-PROFIT COLLEGES

Mr. DURBIN. Mr. President, if you opened the newspaper over the last several weeks, you have probably noticed a large full-page advertisement that has appeared almost every day. It shows, usually, a young person, and it has a caption that reads: "A hundred thousand working Americans don't count? Put the brakes on the Department of Education's gainful employment rule."

There are a lot of photos of young people with that basic statement popping up in newspapers not only in Washington but across the United States. Others show photos of young people saying: "I don't count? Some in Washington think I don't."

These ads have been hard to miss. They have been running in more than 10 newspapers on a daily basis for several weeks, at a cost of millions of dollars. Most Americans, when they look at it, are puzzled and say: What is this debate and this battle all about?

Well, many of these ads are being paid for by Corinthian Colleges, Incorporated. This is a for-profit higher education company that provides training and education after high school for young people across America—and for those who are not so young anymore. Corinthian and other for-profit colleges

are upset about a regulation that the Obama administration has proposed. Corinthian is spending millions of dollars on a barrage of ads across the United States, rather than basically taking the same money and offering it in scholarships to help their students. They want to stop the Obama administration from its proposed change in the rules. The proposed regulation could end Federal subsidies to some of the poorest performing for-profit colleges in America. That might hurt the profits of some very wealthy corporations, especially Corinthian.

This is simple dollars and cents. They are spending millions of dollars now to persuade Congress, and perhaps some voters and opinion makers, not to enforce a rule that holds them to a standard of performance because they may lose business. If they lose business, they may lose profits. In losing profits, they think it is worth putting money into this advertising effort. They are worried, because if you take a look around, you cannot miss them in Washington. I have said, half jokingly, that having served in Congress for more than 20 years, the best way I can find to meet former Members of Congress whom I have served with over those 20 years is to take on this issue because they have all signed up as lobbyists for these for-profit colleges. They are calling me and saying: DURBIN, guess who I am working for. It turns out my efforts to hold for-profit colleges accountable for the students going to school there and ending up deeply in debt is a full employment bill for former Members of Congress to be lobbyists. That was not my intention. It is not my goal.

They are also spending millions of dollars on these ad campaigns, about which I have spoken to newspaper people who say: The newspaper business isn't profitable anymore, but thank goodness these schools are buying full-page ads. So I have this sort of one-man campaign to put Americans back to work and make American newspapers more profitable. It is almost the basis for a comedy routine, except what I am talking about is not funny at all.

I am talking about some of these for-profit schools that are sinking young people deeply into debt in student loans that they can never pay off, promising them courses, training, and degrees that will lead to a good job and, in fact, it leads to a dead end, where they end up with a worthless piece of paper. They don't end up with the skills they need to get a job, but they do end up in debt, with student loans to the heavens.

I think the Department of Education is on the right track. If we are going to send literally millions, if not billions, of dollars to colleges and schools that are training those who finish high school, we should have some standards there. We should not just give them to anyone who happens to call themselves a school or calls their effort an edu-

cation and training. It is right to ask these questions.

The proposed gainful employment regulation is complicated, and some changes may be made before it is all over. It is basic: For-profit colleges should not routinely leave students with student loan debt that they cannot afford to pay back. Luring a 19-, 20- or 21-year-old deeply into debt, when they are being promised a job they will never have, is cruel and unfair. In a moment, I will tell you what happens when the students default on their debts. In the meantime, the taxpayers are subsidizing this. It is our Federal tax dollars passing through Washington and out to these schools, loaned to students, paid to the colleges that are representing they have something good to offer, leaving students deeply in debt and many without a job.

This rule the Obama administration is looking at would look at debt-to-income ratios and student loan repayment rates to determine those education and training programs that are leaving students with more debt than they can realistically ever pay back. Those programs might have to print a warning label on their promotional materials about the high debt levels of their students or there might be restrictions on enrollment in departments of schools that regularly produce students who are deeply in debt without a job. Some programs would actually lose their eligibility for Federal student aid if they don't meet certain standards. I think that is an honest approach for the students and for our need in this country to educate and train people in our workforce.

Recently, I had a hearing in Chicago, and it was on this issue. I could not get over the crowd. I expected a few people to be interested, but 450 people showed up. We had to have an overflow room in the Federal courthouse. As I walked into that Federal courthouse building, I thought there was something else important going on there beyond my hearing. It turned out the demonstrators on the sidewalk outside were there for me. So I went up to talk to them; they were students. These two students I spoke to were dressed in a white tunic, which chefs wear, with buttons on the side. They were carrying a sign against the gainful employment rule. I talked to them. I said: Where do you go to school? They said they went to the Institute of Art of Chicago, located in the suburb of Schaumburg, IL.

For those of us who know Chicago, the reason that name is written the way it is written is because there is a real art institute in Chicago. This school is not affiliated with it, but it is creating the impression that it may have some connection. It doesn't. I asked the student: What are you studying? The student says: Culinary arts. I want to be a chef. I said: How long does the course last? He said: 2 years. I said: How much do you pay in tuition for this course? He said: \$54,000. It costs \$54,000 to work in a restaurant. I said:

How much will you get paid after you finish the course, when you go to work? He said: We usually start at about \$10 an hour, and if I work 6 days a week or maybe more and do overtime, I might make \$30,000 a year gross. I said: Do you have any idea how long it will take to pay off this debt? What is this leading to? He said: Someday I want to own a restaurant. I said: That is a great ambition, but if you start this journey \$54,000 in debt, what is the likelihood you will reach your goal? He said: Well, I am going to pursue it. I think it is the thing to do.

The same culinary course is offered at the community colleges in Chicago—a 2-year course, with the same preparation, and the tuition for 2 years is \$12,000 versus \$54,000. This young man is going to be deeply in debt, a debt which people our age think, my goodness, that is more than my first home cost. They are going to have that facing them as they start a job that pays about \$10 an hour.

That, to me, is unfair and creates an unrealistic expectation. I wish there would be a suspension, for about 6 months, of the super chef, master chef shows, so all the young people who are bored and watching cable TV will not turn to these shows and have these dreams about being the master chef of tomorrow. For many of them, it will be a dream that is never realized, although the debt they incur will be realized in a hurry. We think these schools would either have to improve the salary outcomes of their students or cut tuition costs. Either way, that is good for students.

But the for-profit colleges want us to believe that the idea of controlling student debt somehow hurts these students. Look at Corinthian College spending millions of dollars on these ads to stop this accountability. This company is buying full-page print advertising all across America. It owns Everest College, Everest Institute, and Everest University. How many students are enrolled at the colleges owned by Corinthian? It is 112,000, including 20 percent through online courses.

If I did a quiz and asked the American people which institution of higher learning they believe receives the most Federal funds of any institution in America, most people would get it wrong. It is an institution that is owned by a company called the Apollo Group, and it is known as the University of Phoenix. The University of Phoenix has over 450,000 undergraduates enrolled. That is more than the combined undergraduate enrollment of all of the Big Ten schools—450,000-plus. They receive more Federal aid for education than any other institution in America. Next is DeVry out of Chicago—for 75 years—and I might add during the course of testimony before our panel, our investigation did come up with some very positive things to say. I hope what I am about to say is not taken to condemn every for-profit

school. I think some are doing a good job in some areas and they are valuable and should continue. The other is Kaplan University. Kaplan is owned by the Washington Post and is the biggest moneymaker in their corporation.

They have quite a few students. They are No. 3 in terms of receiving Federal aid to education. The fourth school, incidentally, is Penn State University, finally one you would guess would be there. It is a large university with online courses. That gives us an idea of where the Federal money is flowing from student loans and Pell grants. It is going to for-profit schools. They represent about 9 percent of all the students taking postsecondary education. They represent 25 percent of all the Federal aid to education and 43 percent of all the student loan defaults: 7 to 9 percent of the students, 43 percent of the defaults. It is an indication that we have a problem. We are shoveling money in the name of educating students at institutions which are heaping them up with debt and not providing them with training or preparation for a good-paying job.

In 2009, Corinthian—the one buying the millions of dollars in pages of advertising—had \$1.3 billion in revenue, up 22 percent over the previous year, and 89 percent of the revenue for Corinthian Colleges across the United States came from the Federal Treasury, from taxpayers, in the form of Federal Pell grants and student loans. That does not include the GI bill, Department of Labor funding or Department of Defense funding.

The company's net income—that is their profit—was \$71 million. The CEO of Corinthian Colleges, buying all these ads, was paid \$4.5 million in executive pay and other compensation last year. Corinthian spent, out of the money they brought in—89 percent of it from the Federal Government—\$295 million in advertising and recruiting in 2009. That is 22.5 percent of the total revenue went to advertising and recruiting.

They are, by and large, a marketing operation: bring the students in, sign them up, bring in the Federal dollars; bring in more students, sign them up, bring in more Federal dollars.

Given the ad campaigns in the newspapers, the amount spent on advertising by Corinthian is likely to go up even higher.

On average, for-profit schools, which receive the lion's share of the revenue from taxpayers, spend 25 percent of their revenue on advertising and recruiting.

What do community colleges across America spend in recruiting students to come to their campuses and classrooms? Not 25 percent of the revenue, 2 percent. They are being outclassed in the marketing battle by these for-profit schools.

How are the students doing at Everest College, for example? Recently, an undercover Government Accountability Office investigator went and

took a look. That investigator posed as a potential student and found that the admissions representative at Everest College misrepresented the cost and length of the program and refused to disclose the graduation rate to this so-called potential student—not surprisingly. Do you know why? Only 15 percent of the student loans are being paid by the students who go to Everest; 85 percent of them are not paying on their loans. It shows they are getting into debt they cannot pay off.

Data from the Department of Education indicates that Corinthian, overall—in all their different colleges—has a 24-percent repayment rate. Three out of four students who go to their schools cannot pay the principal on their debt after they finish—three out of four. It is the lowest repayment rate of any publicly traded corporation in this business.

On a recent investor call, Corinthian acknowledged some campuses are at risk of losing their accreditation and that a majority of campuses will have 3-year default rates over 30 percent.

We cannot expect a young student fresh out of high school or someone without worldly experience to launch an investigation about whether a school is accredited. One assumes, if the Federal Government is going to send its money to that school for the students, somebody in Washington is keeping an eye on the school to make sure it is the real thing. The honest answer is we are not. That is why the Obama administration thinks we should change the rules, create more oversight on these schools, make sure Federal dollars are well invested and students do not end up overwhelmed by debt.

An independent analysis predicted that the Corinthian companywide 3-year default rate may be 39 percent. Do you know what that means? Two out of every five students who attend a college owned by Corinthian will default on their student loan within 3 years—40 percent of them.

That is happening despite the company's strong efforts to lower the number of defaults within the government's 3-year window. They are encouraging students to just pay interest on their debt if they cannot pay the principal so they can at least say you are paying something.

Corinthian spent \$10 million over the last year to strengthen what it calls default management because they see the writing on the wall. It is indefensible that we are sending this money to the Corinthian corporation. They are heaping debt on the students and not producing an education that leads to a job.

Everett College in Illinois is doing slightly better with a default rate of 25 percent.

Corinthian also offers private loans to students who are in trouble. Listen to this. Corinthian Colleges' chief financial officer, Ken Ord, stated in a Federal 2010 investor call that they an-

ticipate a 56- to 58-percent default rate on the private loans the school makes directly to students.

That is a 56- to 58-percent default rate on an estimated \$150 million in internal student lending. Why is Corinthian willing to lend money to the students—their own money—when they know these students are already defaulting on their government loans?

The company is willing to take this loss of \$75 million in private student loan defaults because these loans help ensure the Federal loans and Pell grants will keep coming in to these students, despite the fact they are in over their head in debt and have nowhere to turn.

Corinthian Colleges was sued by the State of California in 2007. The State argued it misled students about career opportunities. They reached a \$6.5 million settlement in the State of California to refund tuition to former students, pay student debt cancellation, and pay civil penalties.

That was not the first time they had been in court. There have been a number of lawsuits from former students who had spent tens of thousands of dollars for useless degrees and useless certificates from Corinthian and Everest.

Recently, Corinthian and several of its executives are being sued by their own shareholders for allegedly making false and misleading statements about the company's business prospects.

I have questions about whether Corinthian is the education opportunity students are looking for. There are certainly students who have a good experience at one or more of the Corinthian schools, but I wish to share a story that they are not featuring in their full-page ads, arguing that they should not be subject to oversight by the Department of Education.

Last year, Washington Monthly magazine told the story of a student named Martine. At the age of 43, Martine decided to go back to school and pursue a career in nursing. She came across a Web site for Everest College, part of the Corinthian Colleges chain.

Martine was promised hands-on training in state-of-the-art labs and rotations at the Los Angeles Medical Center. She was worried about the \$29,000 tuition but was told it would not be a problem. She was going to make \$35 an hour as a nurse.

When Martine filled out her paperwork, she was rushed through the process and was not told the terms of her loans, including private loans that carried double-digit interest rates.

The education did not prove to be what she had been promised. The instructors were inexperienced. The lab equipment was old and broken. Instead of the promised rotations at UCLA Medical Center, her clinical training consisted of passing out pills in a local nursing home.

Martine was unable to find a job after she graduated. Instead, she is working as a home health care aide, and she cannot pay back her student

loans. She said: "I made one mistake, and I will be paying for it for the rest of my life."

Many of these for-profit colleges argue that we need them desperately because the community college system in America is filled. Not true. Over the last week, I went to Olive-Harvey College, part of the community college system in Chicago. They have new leadership that is inspiring. I said: What is your capacity?

They said: We are at about 50 percent of our capacity. We can absorb many more students in our community colleges.

The cost is a fraction of what these for-profit colleges charge. It is important we give to students the information about the variation in costs for education and training and what they can expect to receive. According to the Department of Education, Everest College in Skokie, IL, costs, on average, \$14,000 in tuition and fees for education.

Less than 3 miles away from the Everest campus in Skokie is a school you and I both know, Mr. President—Oakton Community College.

At Oakton, students can earn degrees in the same fields, same certificates for dramatically less. A certificate in medical billing, a program offered at Everest College—the private, for-profit school—for over \$10,000 will cost you \$1,000 at Oakton Community College, one-tenth the cost of this private school.

The Corinthian ad campaign suggests we do not think the students who are enrolled in their schools count. I disagree with them. I think they count for a lot. They count for our future. I would like to tell the students attending for-profit colleges, it is because they count that we are asking these hard questions.

I see another colleague on the floor, the Senator from Minnesota, so I will wrap up quickly and tell one thing I want students across America to know. First, the standards I wish to impose on for-profit colleges I also wish to impose on community colleges, public universities, and private universities. They should be accredited so their hours are worth taking. They should not promise a job leading from a certificate that is earned there if it is not true. They should have full disclosure to students about what it means to enter into a student loan, and they ought to have some revenue coming in other than the Federal Government.

For many of these, 75 to 90 percent of their revenue comes straight from the Federal Government. When the GAO did the undercover survey of what some of these for-profit schools are saying to students, some of these recruiters were saying to them: I am a recruiter, but I just finished college, and I have a big debt I will never pay back. I am going to have a good job and make a lot of money, so it is OK.

Do you know what happens when you default on a student loan in America?

It is time we tell students what they get into if they get in over their heads with a worthless education.

Your loan will be turned over to a collection agency and they may charge 25 percent more to collect what you owe.

Your wages can be garnisheed; that is, they can take it right out of your paycheck.

Your tax refunds can be intercepted by the Federal Government if you still owe on a student loan.

Your Social Security benefits ultimately will be withheld if you end up in debt at that point in life from a student loan.

Your defaulted student loan will be reported to a credit bureau and will remain on your credit history for 7 years, even after it is paid. That means you may not be able to buy a car, a house or take out a credit card. It might be you cannot get a job because of your credit history. You cannot take out more student loans or receive Pell grants to go back to school.

You are no longer eligible for HUD or VA loans.

You could be barred from the Armed Forces and might be denied some jobs in the Federal Government.

I might also add, most student loans are not dischargeable in bankruptcy. When the bottom falls out and you go to bankruptcy court, that is the one that will still be hanging over you when you walk out of that court process.

We have to be honest with students across America and let them know what they are getting into when they get into student loans. I borrowed money. I went to a good school. I think it paid off for me. It was an important decision. I was not misled about my education. I knew what it would get, and I was willing to risk the debt to reach that goal, and it worked. That is a good thing.

For those who are misleading students and burying them deeply in debt, I can tell them the time of accountability has arrived. The Federal Government is going to keep its obligations to the students across America to help them with education, but these schools have an obligation to their students to be honest with them, to be accredited, and to produce training and education that leads to a good-paying job.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. FRANKEN. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### THE RECOVERY ACT

Mr. FRANKEN. Mr. President, I rise to discuss something I regret. I regret that Democrats have allowed the word "stimulus" to become a dirty word, one that we avoid using.

The President spoke a few weeks ago about his new plan to invest \$50 billion

in new infrastructure—projects that will improve safety and transportation. But he never once mentioned the words "stimulus" or "recovery." That was probably a smart move on his part because, frankly, the stimulus has gotten a bad rap. But this is a reputation it absolutely does not deserve.

There are Members of this body who opposed the Recovery Act because they thought it would not work or did not jibe with their theory of economics or of how the government should address recessions, and that is fine. They were entitled to vote the way they thought best. But now a year and a half later, we have been able to see the economic effects of the Recovery Act. To deny it has been a success is simply to ignore the facts.

A recent poll showed that a majority of Americans believe that either the stimulus bill did nothing to help the economy or even made it worse. The economic data, however, indicates otherwise. How do we explain this disparity between what people believe and what the data supports?

Members of the American public do not form opinions out of thin air. They engage themselves. They watch the news. They listen to speeches by elected officials. One would expect that watching the news and listening to your elected officials would be a decent way to form an opinion about something. Unfortunately, the talking heads on many of the news shows, along with many elected officials, have been feeding the American public half-truths, at best, about the Recovery Act, and that, frankly, is cheating the American people out of the facts.

Today, I wish to go through some of these claims made by these talking heads and elected officials and then follow it up with some data, and that way the American people can use the facts to decide for themselves.

Let's take claim No. 1 about the Recovery Act, made by one of my colleagues in February: "It didn't create one new job."

The Congressional Budget Office—the arbiter and referee of economic questions that we in the Senate all have agreed to abide by—reports that the Recovery Act has increased employment by 1.4 million to 3.3 million people. A separate report issued by two respected economists corroborates CBO's estimates, putting the figure at about 2.7 million jobs. That report was issued by Alan Blinder and Mark Zandi. That is Mark Zandi, who, incidentally, was a key economic adviser to the John McCain Presidential campaign in 2008.

I understand that economic analysis has a lot of errors; that estimating jobs figures is very complex and it is difficult to determine whether a job was created or saved. But when CBO and respected economists agree that employment has increased by millions of jobs, is it at all plausible that the Recovery Act didn't create a single new job? Well, of course it is not. But that doesn't seem to stop some misinformed souls from claiming that.

Let's tackle the second claim. My friends on the other side of the aisle often imply that tax cuts would have been more effective than the Recovery Act. But perhaps they have forgotten that over one-third of the stimulus package in the Recovery Act was comprised of tax cuts—\$288 billion of it.

Unfortunately, the tax cuts were designed in a way so that many Americans didn't notice they were getting them. An extra 20 bucks on your paycheck adds up for you and the economy over time but people don't notice it as they do when they get a big lump sum rebate or refund. But here is the thing about lump sum refunds. People like to save them or pay off debts with them. When you get an extra 20 bucks in the paycheck, you are more likely to spend it, giving the economy a boost.

This explains one unfortunate paradox of the Recovery Act. Because the tax cut was well designed, it helped boost consumer spending, but nobody noticed it. But that is not a failure of Recovery Act policy, that is a failure of getting the message to the American taxpayers. The tax cuts in the Recovery Act did their part. According to CBO, tax cuts for those in lower income brackets increased GDP by \$1.70 for every dollar in tax cut.

For those who would argue the Recovery Act should have been only tax cuts, consider this: While tax cuts for lower brackets yielded a \$1.70 GDP boost, tax cuts for higher income earners and companies only raised GDP by 50 cents per dollar spent, and neither of these figures compares to the return on the Recovery Act's public works investment—an impressive \$2.50 increase in GDP for every dollar spent.

After tax cuts, another substantial portion of the stimulus was fiscal aid to States. The Recovery Act provided about \$224 billion to States so they wouldn't have to slash essential State programs. State budgets across the country are in dire straits. The Center on Budget and Policy Priorities estimates 46 States will have budget shortfalls this year. Over the past 2 years, the Recovery Act has helped fill in a large percentage of State fiscal gaps.

Imagine where State budgets would be had they not received assistance from the Recovery Act. Imagine the layoffs of teachers and firefighters and law enforcement, and of people who deliver key social services, for which there is far more demand during an economic downturn.

Let's look at another misleading claim—that the Recovery Act failed because it didn't keep the employment rate under 8 percent, as President Obama promised. Well, it is true that President Obama's advisers did not accurately forecast the gravity of the unemployment crisis. But, frankly, nobody did. And because of the lag in unemployment data, we now know that unemployment had already surpassed 8 percent by the time the Recovery Act was signed into law.

Let me walk you through this, because it is interesting, I promise. The

claim about Obama's promise of keeping unemployment down actually came from a report issued by Obama's advisers on January 9, 2009—before he took office. In early January, we only had access to job numbers through November. Back in November 2008, unemployment was about 6.9 percent. By December, it had risen to 7.4 percent. But the Recovery Act wasn't signed until February 17, and by February the unemployment rate had risen to 8.2 percent.

So the unemployment rate was already over 8 percent when the Recovery Act was signed, let alone had any chance to go into effect. By that time, Obama's advisers, along with most other economists, had realized the tide of unemployment was going to be much more severe. So it is fair to say that President Obama's advisers underestimated the coming employment crisis, but it is not fair to say that unemployment exceeding 8 percent was a failure of the Recovery Act. It is preposterous to say that because the report issued by Obama's advisers contained an economic forecast that later proved to be inaccurate, therefore, Obama lied or that he broke his promise or that he is an expert in snake oil, as I heard a talking head on a Sunday show say. A forecasting error is not a lie.

Let's look at another claim. As an elected official has stated:

According to the Bureau of Labor Statistics, since the stimulus was passed we have lost 3 million real jobs, 2.4 million net jobs in this economy and all the calculations and reports from the White House are not going to change the fact that their economic stimulus bill has failed.

Okay, this is a fun one because, technically, the first part of the claim is correct—since the Recovery Act, we have had a net job loss.

Here is a chart illustrating the job losses mentioned. These are job losses, here. See. You may notice a trend. I am going to show another chart that might put this more in context. You may notice a trend here. This is President Bush. If we had a slide whistle, it would whistle up on the scale. And if you had a slide whistle for here—here is the Recovery Act—it would whistle up on the scale. There is a trend. You can tell by my slide whistle that the Recovery Act was clearly a turning point. We went from a downward slide to a relatively upward climb. It is not as fast as we would like, and things have been slightly stalled of late, but clearly—clearly—we are doing much better.

This is Bush's last day in office.

In fact, one could make the argument that the stimulus was key in reversing our slide into a depression. In fact, that is pretty much exactly what Blinder and Zandi have said about the Recovery Act. Remember, this is Mark Zandi, who was JOHN MCCAIN's economic adviser. The Blinder-Zandi report sums it up this way: The government response to the crisis "probably averted what could have been called Great Depression 2.0." Again, from the

adviser to the 2008 Republican Presidential candidate.

I think avoiding a depression is, on balance, a good thing, and I think most Americans would agree. And if they knew the facts, they would thank President Obama and the Members of Congress who kept us from sliding into another Great Depression.

Let's look at a fifth claim. A prominent elected official said recently that he thinks the Recovery Act created only bureaucratic government jobs—only bureaucratic government jobs. In response to that, I wish to show a few recovery projects in progress in my State of Minnesota. You can judge for yourself whether they are bureaucratic government jobs.

I am not sure how the cameras work here in the Senate for those watching on TV, but maybe they can push in here on Jamie, a Local 361 carpenter from Cloquet, MN. Here he is performing scaffolding work on the north tower of the Duluth aerial lift bridge. He is doing this in January 2010. The Duluth aerial lift bridge, I think, is the largest in North America. The south tower will be completed this winter as part of the two-phase \$5 million project funded by the Recovery Act.

Jamie, his wife and two children—aged 19 and 14—went without health insurance for 13 months when he was on unemployment. He was hired for this job last winter and worked enough hours on this job to get back on health insurance. The Recovery Act has enabled Jamie and his family to get back on their feet. I ask you: Does Jamie look like a government bureaucrat?

How about Cecil? Here is a picture of Cecil. I want to ask you: Does Cecil look like a bean counter for OMB? Cecil is pictured here working on the Highway 610 extension project in Brooklyn Park, MN. He is building 6 miles of sound walls. I attended the groundbreaking ceremony for this project. So did a Republican Congressman from this district, who voted against the stimulus package. Cecil had been unemployed since 2008 before being hired onto this Recovery Act-funded project. He has told us he is very thankful for the opportunity to earn a living wage to support his family.

Next, we have Spencer, a Local 49'er crane operator for a contractor named LUNDA, working on the 694/35W widening of bridge and on and off ramps—a \$2.5 million project. There are 11 on-site contractors—private contractors—working on the project. Spencer, who is 23, is from Isle, MN, and was unemployed until this job came along. Spencer told me:

I wasn't working until this job came along . . . investing in our country's infrastructure is an investment in my financial fate and family's future.

As I said, his Local 49'ers run heavy machinery. I don't know about you, but I don't know many Washington bureaucrats who can safely operate heavy machinery.

Who is next? Matthew and Randy, both Laborers Local 563. They had been employed by contractor CS McCrossan for 7 and 13 years, respectively, before they were both laid off last fall. But this spring, they were hired back to work on several different Recovery Act-funded projects. They are pictured here working on a pedestrian replacement bridge on 49th Avenue Northeast over Central Avenue in Columbia Heights, MN. You can see them. They are, you know, a couple of CBO paper pushers, I guess.

Next we have Sheila. Here she is working on the night shift on the I-94 rehabilitation project. I-94 is a huge interstate highway in Minnesota—a very important artery. Sheila is new to the construction industry but her work ethic has led her colleagues to comment that she has a bright future in the industry. These are just a few of the 70,000 Recovery Act projects happening across our country.

Here is another project in Two Harbors. These guys are building a water tower. In addition to five crews of workers on the project, the tower tank is made of 723,000 pounds of American steel. Let's get a picture of it; looks like a little more in progress—723,000 pounds of American steel, and the rebar is another 33,000 pounds of American steel. So additional American workers made this steel. More American workers mined the iron, Minnesotans on the Iron Range—Minnesotans. More jobs. I visited Two Harbors on September 6, just a few weeks ago, and personally saw this project in progress.

As you can see, these folks are not in suits and ties shuffling papers; they are building bridges, they are building roads, they are building water treatment plants and water towers. These projects are going to improve transportation and the health and safety of people in Minnesota. Because of these jobs, made possible by the Recovery Act, they will keep a roof over the heads of their families, put food on the kitchen table, send their kids to college, and, yes, buy stuff.

Another vital component of the Recovery Act that is often overlooked is its expanded funding for unemployment insurance that helped keep 3.3 million unemployed people, including 1 million children, out of poverty in 2010.

Another overlooked but critical program in the Recovery Act is the funding for Head Start. The \$2 billion allocation preserved Head Start and Early Head Start programming for 64,000 children across the country—over 900 in Minnesota alone. These programs are helping the most vulnerable kids, kids in our communities.

It is simple. Economic analysis suggests that the Recovery Act boosted demand, created millions of jobs, kept families in their homes, and helped the economy start growing again.

Let me tell you what I love about being a Senator as opposed to being a candidate for the Senate. I think most of my colleagues can relate to this. The

Presiding Officer has been a statewide candidate many times. When you are a candidate, you are speaking mainly to your own people. If you are Republican, you are speaking to Republicans to get the nomination and then to get out the vote. If you are a Democrat, you are doing the same. But as a Senator, you talk to everyone.

As Senator, I have been privileged to go all around the State of Minnesota and talk to folks at economic development meetings. I have talked to county commissioners and mayors and city councilmen and small businesses and community bankers. You know what. I don't know what party they are in, and I don't care. We are trying to get people going. We are trying to get the economy moving. Everywhere in Minnesota, do you know what these folks say to me? Thank you for the Recovery Act. Thank you. Thank you for the teachers we are able to keep on here in Brainerd, the firefighters, and for the Workforce Investment Act funds so we are able to train people for jobs that were available but didn't have trained people for. Thanks for the highway underpass so school buses do not have to cross the train tracks or an ambulance doesn't have to cross the train tracks. Thanks for funds for the wastewater plant or for rural broadband or for the weatherization of public buildings—speaking of which, Michael Grunwald, writing for Time Magazine, wrote this:

The Recovery Act is the most ambitious energy legislation in history, converting the Energy Department into the world's largest venture-capital fund. It's pouring \$90 billion into clean energy, including unprecedented investments in a smart grid; energy efficiency; electric cars; renewable power from the Sun, wind and Earth; cleaner coal; advanced biofuels; and factories to manufacture green stuff in the U.S. The act will also triple the number of smart electrical meters in our homes, quadruple the number of hybrids in the Federal auto fleet and finance far-out energy research through a new government incubator modeled after the Pentagon agency that fathered the Internet.

A few weeks ago, I heard a prominent conservative talking head on one of the Sunday news shows describe the Recovery Act this way. He said:

If I pay my neighbor \$1,000 to dig a hole in my backyard and fill it up again, and he pays me \$1,000 to dig a hole in his backyard and fill it up again, according to the national income statistics, that is a \$2,000 increment to GDP and two jobs have been created. The American people understand, however, there is no real wealth created in this kind of transfer payment.

How offensive. How out of touch. Yet this is why so many Americans believe the Recovery Act has not created any jobs or just created jobs for bureaucrats.

I worry that my speech today is too little, too late. I worry that most Americans have already formed their opinion about the Recovery Act based on the inaccuracies they hear from beltway pundits or from elected officials. But I challenge these talking heads and these elected officials to find the Spencers and Sheilas and Cecils

and Randys in their State, go out and watch them work or talk to a teacher in a classroom or a cop on the beat. They are not digging and filling holes in their neighbor's backyard. They are doing skilled work, necessary work, hard work rebuilding our roads, teaching our children, and getting paid for it. With their paychecks, they buy food for their families and make their car payments and maybe buy a new one, which generates more demand. That is an economic recovery in the making.

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

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

U.S. SENATE STAFF: GREAT FEDERAL EMPLOYEES

Mr. KAUFMAN. Mr. President, last week I stood at this desk and recognized my 100th and final great Federal employee. Since May, I have come to the floor each week to share the stories of dedicated men and women who have chosen to work in public service.

Honoring these individuals has been truly one of the highlights of my time in office. As my term nears its end, I look over at this mosaic of dedicated government employees, and I hope that these speeches each week in their honor have drawn attention to the excellent work they have done and continue to do for our Nation.

At a time when politicians express their frustration with lack of progress by attacking nameless, faceless Washington "bureaucrats," I thought it important to shed light each week on the face, story, and accomplishments of individual Federal employees. In that way, in my own small way, I hope I have helped remind people that those who pursue government work are constantly trying their best, often at great personal sacrifice, to make this a better country and a better world.

These 100 are a microcosm of our government workforce; as I have said before, they are not exceptional but exemplary. They come from over 40 departments, agencies, and military service branches. They represent a Federal workforce of 1.9 million.

Just as we 100 Senators are a snapshot of the American people, these 100 great Federal employees are a snapshot of the hard-working men and women who serve the American people every day.

But, just as it takes more than a 100 great Federal employees to carry out the work of the American people, it takes more than us 100 Senators to perform the work of the U.S. Senate. This week, in closing my series of speeches

honoring public service, I want to recognize the untiring efforts of U.S. Senate staff.

I am not only speaking of those who work for Members as personal staff. I mean everyone here who has a role in making the Senate work, including those who work in the cloakrooms, the Parliamentarian's staff and that of the clerks, those who provide support services through the Sergeant at Arms and the Secretary of the Senate, the men and women who serve as Capitol Police, and so many more. Over 7,200 people work as Senate staff in personal offices, for committees, and for the various services that keep the modern Senate functioning.

All of them know well the importance of the Senate in our system of government and the role it plays binding our large and diverse Nation together. Indeed, on the west pediment of the Dirksen Building it is inscribed: "The Senate is the living symbol of our union of states."

It is a living symbol in that we rely upon a deliberative group of wise men and women to smooth out our differences and keep fastened securely our union's many parts.

We cannot do this without the help of our staff. They brief us on issues and provide up-to-the minute research. They are our link with executive agencies and the military. They maintain our busy schedules and keep us on time, or mostly so. They form a network that links our offices together with one another and make bipartisan deals possible. Most important, they keep us connected to our constituents while we are here working for them in Washington.

Who are these staffers, and what brought them to these Halls?

Many of them are young, in their twenties and thirties. They have an energy and passion for the issues on which they work. Those who stay more than a few years often spend their whole careers here, becoming some of our Nation's leading experts in their issue areas. Just like Members, staff preserve the institutional memory of this body and pass on its traditions and history.

We have staffers from both civilian and military backgrounds. Every profession and field of education is represented here. Senate staffers have trained as doctors, lawyers, writers, farmers, nurses, engineers, teachers, manufacturers, the list is endless. They come from every State and territory in the Union.

They are creative and intellectual, pragmatic and imbued with good-old common sense. Senate staffers are diverse in both their origins and their ideas.

The paths that led them to the Senate are diverse as well. Staffers have come here because they are driven by a shared love of country and they long to play a constructive role in our Nation's history. One of the common traits of Senate staffers is that, when asked,

they will say that there is something truly special about working in the Capitol and these impressive office buildings. Their eyes light up talking about the history and gravity of this place. They share the great feeling of excitement from living inside the news.

Staff work under the long shadows cast by this body's Members. Infrequently seen in the public spotlight, nevertheless their hands mold and shape everything we debate and pass. Here no 2 days are the same; there is no routine.

I like to think that my staffers are the best, but I know that every Member or Senate officer thinks his or her staffers to be the greatest. I would never dare dispute any of them.

Senate staffers share in common a deep sense of pride in their public service. They share the experience of walking through these august Halls and feeling goose-bumps from the power and weight of history and their palpable role in it. On both sides of the aisle they all want America to be strong, prosperous, and safe.

Senate staffers are so great because they take their jobs so personally.

This is why they work so hard. It is why they are here on weekends, drafting legislation, hammering out deals across the aisle, and advising their Members on the next day's votes. It is why front desk staff assistants are so compelled to engage with the constituents who call in with questions about bills.

It is why security guards, maintenance personnel, and those who work in the Printing, Graphics, and Direct Mail division trudged through the snowstorm to get here when all other government offices were closed. It is why all kinds of staff are here past midnight regularly.

I was a Senate staffer for 22 years. My service as chief of staff to JOE BIDEN gave me the chance each day to work with wonderful people on both sides of the aisle who came to the Senate motivated by love of country. Many of those with whom I worked during those days went on to other jobs in government and continue in public service today. A number of former Senate staffers now serve in the House of Representatives and in this Chamber.

As I come to the end of this series, I cannot help but think about all those great Federal employees I have not had a chance to honor from this desk. There are so, so many. They are the unsung heroes that keep our Nation moving ever forward.

I hope my colleagues and all Americans will join me in thanking those who serve and have served as staff here in the U.S. Senate. They are all truly great Federal employees.

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.

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

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

(The remarks of Mr. CASEY and Mr. DURBIN pertaining to the introduction of S. 3849 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Wyoming.

(The remarks of Mr. ENZI are printed in today's RECORD under "Morning Business.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. GOODWIN. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

UNANIMOUS-CONSENT REQUEST—S. 3671

Mr. GOODWIN. Mr. President, I rise to talk about an issue of incredible importance to my home State of West Virginia, to the Presiding Officer's home State of Virginia, and, indeed, to our entire country; that is, the safety of our coal miners.

Unfortunately, during the past 4 years, West Virginia has dealt with three significant mining disasters. On an early morning in January 2006, an explosion rocked through a central West Virginia coal mine killing 12 people. Less than a month later, tragedy struck again at a mine fire in Logan County, where two more miners were lost, and just this past spring, West Virginians mourned, yet again, when 29 of their neighbors were lost in the worst coal mining disaster in nearly a half century.

Through these tragedies, our Nation was sadly reminded of the dangers and risks miners face every day to provide a living for their families and affordable energy for our country. We collectively were reminded how important it is for miners, companies, and regulators to work together to keep our mines safe. Finally, we witnessed how my fellow West Virginians have come together in the midst of crisis and in a time of tragedy.

Yet the story of West Virginia lies not simply in such tragedy but, rather, in the story of thousands of West Virginians who go to work every day to produce nearly half the electricity consumed in this country. It is a story of good-paying jobs with benefits that help form the foundation of strong families and strong communities across my home State. It is a story my predecessor, Robert C. Byrd, knew very well.

In remarks he gave as a young Congressman in his maiden speech on the floor of the House of Representatives nearly 60 years ago, Senator Byrd emphasized the importance of coal in a

speech lamenting our Nation's increasing dependence on foreign oil, remarking in that 1953 speech:

We . . . must pursue not a policy that is detrimental to the economy of this nation and which impairs its strength while enriching other nations, but a policy that will strengthen our beloved country.

Those are words that certainly resonate and ring true today, which is why we should continue our efforts to develop technologies that allow our country to harness this abundant energy source in a cleaner way, such as the bipartisan carbon sequestration bill put forward by Senators ROCKEFELLER and VOINOVICH.

Coal can and must be a part of the solution to the energy challenges of the 21st century. West Virginians know this and understand that our future depends on our ability as a nation to extract and burn coal more cleanly. West Virginians simply want to be part of that conversation and part of the solution.

As we move forward to ensure coal's vital role in the future of our economy, we must simultaneously also keep our focus on assuring that mines remain safe. It is not simply about preventing or investigating a large-scale disaster when that may capture the attention of the Nation and the world for a brief period of time. Rather, when tragedy strikes in a coal mine, it is usually far away from satellite trucks, international media, and the glare of television cameras. All too often, when a coal miner is seriously injured or perishes or succumbs after a battle with black lung disease, it is simply a community and a family who mourns quietly.

I would note that in addition to the 29 miners lost at Upper Big Branch, another 15 coal miners have been killed on the job so far this year, and it is only September.

Sadly, these deaths often go unnoticed by the country at large. The loss is just as great and just as tragic to the families, which is why everyone must remain committed to coal mine safety each and every day and each and every shift.

I know my colleagues in the Senate understand this and have taken this responsibility seriously. The changes brought about in 2006 after Sago and Aracoma were significant and positive. I was privileged to have played a small role in drafting legislation in West Virginia to help form part of the basis for the Federal MINER Act—the first comprehensive mine safety legislation passed by Congress in nearly 30 years.

Our work, however, is not complete. In his final months of service to West Virginia and our Nation, Senator Byrd was working with Senator ROCKEFELLER to craft and push additional mine safety legislation. During my brief tenure in this body, that has been a fight I have been honored to carry on. Although these efforts may not be completed during my tenure, I have every confidence that the Senate will

continue its hard work on passing additional coal mine safety legislation.

There are serious issues that additional legislation needs to address. We need comprehensive and targeted inspections and increased transparency in mine safety recordkeeping. We need a sophisticated and effective way to separate good operators from the bad. For those who are irresponsible, we need enhanced oversight and enhanced penalties. We need to strengthen protection for miners who speak out about unsafe conditions and make certain their livelihoods are not jeopardized when they choose to do so.

Although my time in the Senate is not long, it has been and will always remain my enduring privilege to have served in this body alongside so many dedicated public servants, including and especially my friend, colleague, and senior Senator from West Virginia, JAY ROCKEFELLER. My remarks here today are on behalf of the State we represent and her people whom we both revere.

No coal miner should have to go to work fearing for his safety, and no coal miner should fear for his job for raising concerns about that safety. Coal mine safety is workplace safety, and it is the right thing for our country to do.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the Senator from West Virginia wishes to continue as in morning business.

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

Mr. ROCKEFELLER. Mr. President, in the Senate, the core job, obviously, of any Senator is to do all we can every day to help our constituents. It has been such an honor for this Senator to stand with our newest Senator from West Virginia, CARTE GOODWIN, and work with him to do exactly that.

Before joining this body, Senator GOODWIN made serving West Virginia his focus in everything he did—as an attorney; general counsel to our Governor; chairman of the School Building Authority, which is a very complex matter—and all the while exuding enormous character, great character, dignity, and always keeping West Virginia families first and foremost in his mind.

It has been interesting to watch him on this floor in this relatively short period of time in which he has been a Senator and still is—the way people come up to him, see him as a breath of fresh air, respond to his intelligence, his integrity, his modesty, and his very smart brain.

Senator GOODWIN comes from a family deeply committed to public service that has taught him to work very hard, to give back, and be proud of where he came from. I respect him a very great deal.

More importantly, he has a deeply ingrained sense of what matters to West Virginia. He does not come from one of our big urban counties. He comes from

a very small rural county, Jackson County. He knows what working families need. He knows what people who represent them in Washington need to bear in mind. As I say, his character is strong, his work ethic is unmatched, and his heart is always in the right place.

So it is a sad day for me, in a sense, because I respect him so much and like him so much and I will not be hearing him enough, except if he is dissatisfied with my work, in which case he can call me and tell me that and I will be taking copious notes.

I join Senator GOODWIN to talk about an issue that impacts the lives of every American in this country; that is, workplace safety.

This past April, as West Virginia's other Senator has mentioned, we suffered the worst mining disaster in 40 years in this country. It was statistically shocking, it was personally horrifying, and deeply poignant. Twenty-nine miners were killed in an explosion at the Upper Big Branch Mine in Montcoal.

I was there with the families as we hoped and we prayed for any sign that their loved ones would emerge. For the most part, they did not. The sorrow and hurt and anguish I saw on their faces is unimaginable and indescribable. It is something that no family should have to go through, but it happens in West Virginia and, as it turns out, in other States.

But mining tragedies are not just happening in West Virginia. Nearly one-third of our States have experienced mining disasters this year, including Alabama, Arizona, California, Idaho, Illinois, Indiana, Kentucky, Minnesota, Montana, Nevada, New York, Oklahoma, Tennessee, and Utah. Yet the mining industry is not the only industry where significant improvements to workplace safety are necessary. We have seen major disasters take the lives of hard-working Americans employed in a variety of other industries: 7 dying in a refinery blast in Washington, 6 in an explosion at a clean energy plant in Connecticut; 11 died with the BP Oil rig disaster off the coast of Louisiana which we all know about.

In fact, there were more than 4,300 workplace deaths in the United States in the year 2009, this year not having been completed, but it is a decent benchmark. That is 11 deaths each and every day of the year—11 men and women who went to work but did not return home to their loved ones.

This is America. We are the greatest country on Earth. All of us together must do more to protect the lives of these workforces. That is why Senator GOODWIN and I introduced the Robert C. Byrd Mine and Workplace Safety and Health Act of 2010.

Senator Byrd worked diligently with the two of us on this bill, as have Chairman HARKIN, Senator MURRAY, and obviously Senator GOODWIN. They are committed advocates to the working men and women of our country and

in our State, and I wish to thank them for their tireless dedication to doing what is right.

This legislation contains common-sense proposals that will give Americans the peace of mind that comes from safe working conditions. It fixes the broken “pattern of violations” process which was meant to give MSHA authority to crack down on mines that repeatedly violate our laws, but has never been effectively implemented, this process. It takes a hard look at MSHA itself to make sure it is doing its job by creating an independent panel to investigate the Mine Safety and Health Administration’s—MSHA’s—role in serious accidents. In these matters where regulation is done on discrete and for the most part invisible industries, the people who do the regulating and the checking need to be looked at carefully, just as do those who operate coal mines. It gives teeth to existing whistleblower protections so miners can come forward to report safety concerns. It gives MSHA additional tools to keep miners safe, including the ability to subpoena documents and testimony outside of the public hearing context. This is something which OSHA has, and it is amazing to me that MSHA has not had it and does not have it. If this bill were to pass, it would happen.

Finally, sort of, it provides protections that will apply to workers across, as I indicated earlier, all industries; greater rights for victims and their families to participate in investigations and enforcement actions; updating civil and criminal penalties; and the requirement that hazardous conditions be addressed immediately so that litigation doesn’t shoot right into the middle of it and delay the whole process.

Over the past few months, I have been working with my colleagues on the HELP Committee on bipartisan legislation—and I deeply appreciate the efforts of Senators ENZI, ISAKSON, and HATCH on the Republican side. I have worked closely with Senator ENZI and ISAKSON in the past on other matters, first with Senator ENZI on, of all things, the President’s Commission on Coal back in the 1970s when he was mayor of Gillette, WY, and later with both him and Senator ISAKSON to pass the MINER Act which came right after the Sago disaster.

I stood with both Senators ENZI and ISAKSON at the Sago disaster as we tried to comfort families, as we sat in circles and Senator ISAKSON and Senator ENZI seemed to—well, Senator ENZI comes from a coal-producing State, Senator ISAKSON does not—but both of them profoundly related to the families. It was very clear in their voices and what we saw in their eyes, and the families felt it. I know they care deeply about coal miners.

But it is also no secret that I am deeply frustrated we have yet to produce a bipartisan bill. The families of the Upper Big Branch are wondering,

What is the holdup, and, quite frankly, so am I.

The provisions that should be included in a strong workplace safety bill are not that hard to figure out. In fact, they are the very provisions Senator GOODWIN and I have included in the Robert C. Byrd Mine and Workplace Safety and Health Act, which is why I come before the Senate today to at the proper time ask for unanimous consent that our legislation be passed.

Before I ask for unanimous consent, which I will do, I wish to address three of the main objections I have heard from my colleagues on the other side of the aisle. First, my colleagues on the other side of the aisle have expressed concerns that including workplace safety standards for all industry amounts to overreaching. I am sure the loved ones of the workers who died at the refinery, at the clean energy plant, and the BP Oil rig would see things a little bit differently. I am sure they would tell us that this bill cannot simply be about mine safety alone—although that is huge and the bulk of the bill—we must include important Occupational Safety and Health Administration provisions that cover all industries. OSHA, for example, does have subpoena power, and it does cover all industries, but it too needs to be strengthened.

Second, my colleagues have questioned whether MSHA, the Mine Safety and Health Administration, needs adequate subpoena authority. The idea that a law enforcement agency such as MSHA does not have subpoena power to proactively make mines safer is, to me, unimaginable. We are seeing problems with the existing system right now. The State of West Virginia’s subpoenas in the Upper Big Branch investigation are being challenged in court—totally predictable. The intent, of course, is to challenge them in court before they can be effective and to prevent the questioning of company officials and others with vital information. That is the story of mine enforcement in the coal fields.

Third, it has been suggested that we do not have enough data to support additional whistleblower protections for coal miners. Let me answer that by saying that back in April, the Health, Education, Labor, and Pensions Committee heard testimony from Jeffrey Harris, a miner from Beckley, WV. Jeffrey told us—I was there—what it was like to work for Massey Energy. This is quoting Jeffrey Harris:

Either you worked or you quit. If you complained, you’d be singled out and get fired. Employees were scared but, like me, they have to feed their families. Jobs are scarce, and good-paying coal mining jobs are hard to come by.

The Presiding Officer knows exactly what I mean. We are looking at \$60,000-plus salaries, mostly in the very rural areas of our States, the southwestern part of the Presiding Officer’s State, and it is quite true. What is somebody to do? They have a \$60,000 salary or

they have nothing, because jobs in those areas are not plentiful or, in some cases, simply don’t exist.

To continue, in May, the House Education and Labor Committee held a hearing in Beckley, WV. We heard testimony from miners who have worked at Upper Big Branch and one of those miners, Stanley, nicknamed “Goose,” Stewart told us that:

No one felt they could go to management and express their fears. We knew that we would be marked men. And the management would look for ways to fire us. Maybe not that day, maybe not that week, but somewhere down the line, we would disappear. We’d seen it happen.

So enough is enough. No employee should be fired for reporting safety concerns. A lot of manufacturing companies—I am thinking of Toyota in West Virginia—have the assembly line and they have a rope that goes all the way down. If any worker sees any problem of any aspect, whether it is real or he imagined it or whatever, he pulls that rope, the production line shuts down, and the manager comes over and they fix the problem if it exists. But the comfort that brings to the worker is a very small price to pay for very well-made cars.

Finally, my colleagues on the other side of the aisle have expressed concerns about reforming the pattern of violations process. The pattern of violations process, which does not sound very interesting but which is usually important in bringing things to a head, to justice—was intended by Congress to allow MSHA to take action against operatives that refused to follow our laws. But to date, no mine has ever officially been placed on pattern status. Why would that be? Well, one can only speculate.

I think everyone agrees that the process must be fixed, but what I don’t want to do is to tie MSHA’s hands or to dictate a formula that will virtually guarantee that no mine is ever placed in pattern of violations status. I want a proactive system, one that will identify troubled mines before accidents happen and one that focuses on rehabilitating mines that are having problems.

Mr. President, at this point, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. 3671, the Robert C. Byrd Mine Workplace Safety and Health Act of 2010, and that the Senate then proceed to its consideration; that the bill be read three times, passed, and the motions to reconsider be laid upon the table; and that any statements relating to the measure be printed in the RECORD.

THE PRESIDING OFFICER. Is there objection?

Mr. ENZI. Mr. President, reserving the right to object.

THE PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, as the Senator from West Virginia notes, the only change in mine safety law that was

made was with his and my leadership and several others. That was the first change in 30 years. I know he is aware that in the area of OSHA, the only legislative changes that have been made in the 28 years the law has existed were under my chairmanship, with me as a major sponsor. So I am interested in safety.

The Republicans weren't invited to work on a bipartisan bill until 2 weeks before the August recess. We had our staffs work through the entire recess. There were numerous meetings. We were making great progress. I think we had agreed on 14 different parts or so. We still had six or so provisions that were in the process of negotiation, but very close, and seven or so that the Senators themselves would have to work out. So I am disappointed that was called off. It was not called off by my staff. I think we could have had a bipartisan bill that would wind up unanimous on this side like the last one, with only a few objections on the House side.

So I am disappointed my colleague is attempting to bring up a bill with no bipartisan support at this late stage of the Senate schedule. They went back to the original one, not the one we have been negotiating. If the majority truly wanted to pass a bill on this issue, we would have continued those bipartisan negotiations, or they could have taken this bill through the Senate procedure and allowed a hearing and a markup on the bill.

As I stated last week on the floor, if this were to be brought up this way, I would have to object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. ENZI. Mr. President, having objected, I would like to take a moment to clear up some confusion about what caused the breakdown of bipartisan negotiations on mine safety legislation last week.

The terrible tragedy that occurred in West Virginia this past April has focused us again on the strength of our Federal mine safety laws and regulations. As a Senator from a State that leads the Nation in coal production, I have always considered workplace safety as one of the most important missions of the HELP Committee and I have been pleased to work across the aisle to improve safety. That is exactly what I have tried to do this year as well with my colleagues from West Virginia and members of the committee.

As my colleagues well know, negotiations had been making significant progress until we ran into a stumbling block known as the election cycle. The staffs of seven Senators had been meeting several times a week for over 2 months and all throughout the recess period. Agreements had been formed on over a dozen important proposals, and several more important ones were right on the brink of compromise when the talks were abruptly called off until after the election. Despite what has been said in the press and on this floor,

the simple fact is that we might well have had an agreement by now if the majority hadn't decided they would rather have an election issue. Certainly, it is not for me to consult on the political calculations of my colleagues. But it seems to me that political theatre and failing to work together to get important things like this done are exactly what the American people are so frustrated by this year.

We are serving this Nation best when we work together to accomplish the people's business. The formula is not that complicated and, really, anyone can do it:

Bring both sides together for discussions,

Establish agreed upon goals and work toward agreement on those goals,

Consult with stakeholders that will be affected by the changes being discussed,

Once substantial agreement has been reached, determine which issues the sides will never be able to agree upon, and set those aside for another day's debate. This is what I call the 80-20 rule.

This formula has worked in the past for the very issue we are discussing today—mine safety. In 2006, when I was chairman of the HELP Committee, we were faced with a string of tragic mine accidents in West Virginia. In response to the first one, Senator ROCKEFELLER and Senator Kennedy organized a trip to Sago, WV, to meet with miners, victims' families and investigators. The three of us, along with Senators ISAKSON, MURRAY, and Byrd, then began negotiations and were able to come up with an agreement in less than 2 months—the MINER Act, which was the first major revision of the Mine Safety and Health Act since 1977. This bill made important improvements to the emergency preparedness of underground mines and has fostered tremendous improvements in communications technology adaptability to the underground environment.

One of the reasons I am so proud of the MINER Act is that we wrote it in the way I believe all legislation should be drafted. We brought in all of the stakeholders—the union, the industry, the safety experts, the Mine Safety and Health Administration—MSHA—and we sat them all around the table and worked through the biggest safety concerns and the best way to approach them. Because of the bipartisan nature of the bill, it sailed through a committee markup, was passed by the Senate unanimously a week later, and passed the House 2 weeks later with just 37 House Members opposing. One more week later it was signed into law. That is how it was done.

During my tenure as the chairman of the HELP Committee, we were able to move 27 bills to enactment this way. In total, we reported 35 bills out of committee and, of those, 25 passed the Senate. This is the kind of cooperation and accomplishment Americans are de-

manding, especially on an issue as important and timely as workplace safety.

Every day, thousands of Americans go to work in the energy production industry. The work they do benefits every single one of us and underpins our entire economy. This year, major accidents in the energy-producing sector have taken the lives of 29 men in West Virginia, 6 in Connecticut, 7 in Washington State, 3 in Texas and 11 men off the coast of Louisiana.

If there was ever a time to work together to actually enact legislation, as opposed to playing at political theatre, this should be it.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, first, I wish to reemphasize how much I respect Senator ENZI, the senior Senator from Wyoming, and the fact that he is quite right about the MINER Act and what took place after Sago, which was another rural spot in West Virginia where a number of people were killed—a lot of anguish—and it was the first time in 30 years that there had been any revision of the Federal mine safety laws.

I have to say, though, that the bill we passed, the MINER Act, was not fully—because it had to pass through the committee at that time that was controlled by the present minority, it did not come out as strongly as I would have preferred. However, it was a good bill and has had a good effect in mining.

One of the aspects of mining, which is hard for people to understand, is that there is no margin for error. There is no margin for it. It is a discreet industry, which, for the most part, is carried on out of sight—in this case, underground. The great majority—I would say well over 95 percent—of West Virginians and people from the Presiding Officer's State have never been underground—or I guess sometimes Senators and Congressmen and Cabinet officers.

Obviously, I am disappointed that my colleague objected to this bill. However, I very much believe Senator ENZI when he said that he wants to start working on a bill that will keep people safe. I point out to him that at no point did we call off the negotiations. We were simply at the end of the work period, at the end of August, and there had to be a period of negotiation going on with the staff, and we would come back and take the fruits of that negotiation and go ahead and work on the bill. That is what I would have wished to have seen happen, and what still can happen. As I listened to the Senator from Wyoming, I believe he wants that to happen. As it turns out, so do I, and I am sure Senator GOODWIN does too.

People are counting on us to get this done. They deserve nothing less. I look forward to working on this. Obviously, it cannot be passed now. We have our work to do, but then again we have our work to do in any event.

Senator GOODWIN and I and Senators PATTY MURRAY and TOM HARKIN wanted to lay this down as a benchmark of what a mine safety bill should be. It probably won't end up being in a bill, but that doesn't mean it should not be this bill. You can't do everything at once, and I understand that. I have faith that the process will produce—as the Senator indicated, a number of things were agreed on by Senators, and sometimes I wish it were the Senators negotiating with each other; I think we would get a better bill.

In any event, I have faith in the future, and we all have the eyes of 29 miners and so many others looking down on us waiting for us to take action.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Kansas.

Mr. ROBERTS. Madam President, I ask unanimous consent to speak for 15 minutes to eulogize our former colleague and friend, the President pro tempore of the Senate, the distinguished Senator from Alaska, Ted Stevens.

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

(The remarks of Mr. ROBERTS are printed in today's RECORD under "Morning Business.")

Mr. ROBERTS. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Madam President, I ask unanimous consent to speak for 15 minutes as in morning business.

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

NATIONAL CRIMINAL JUSTICE ASSOCIATION  
COMMISSION ACT

Mr. WEBB. Madam President, first, I would like to say that Senator SCHUMER and I are sharing 30 minutes today—we are going to have to do it in divided time—to speak about concerns with respect to the relationship of the United States with China and where we need to move forward.

Before I do that, I wish to express my hope that my colleagues on the other side will allow a vote on the National Criminal Justice Association Commission Act which I introduced a year and a half ago after 2 years of hearings. We have bipartisan support on this bill. The identical version of this bill has passed the House of Representatives already. We have met with more than 100 different organizations, from our office. We have a buy-in on the necessity of this bill from people across the political spectrum and the ideological spectrum. The three major criminal justice associations strongly back this bill, as do the American Civil Liberties Union, Human Rights Watch, and the NAACP. There is no controversy on this bill. It passed the House by a voice vote.

I certainly hope that before the end of this year, we will see this national commission come into place. It is 18 months of getting the finest minds in America to come together and examine

all aspects of our criminal justice system so we can do two things: one, reduce mass incarceration in this country but also reduce the fear in our communities with the present rate of crime.

There are two charts for people to look at to see why we need to move forward on this legislation. The first is to look at what has happened to the incarceration rate in this country. From 1980 up to today, it has gone off the charts. We have more people in prison than any other country in the world. We have 5 percent of the world's population and 25 percent of the world's known prison population. At the same time, any survey you look at, you will see that three-quarters of the people of this country feel less safe than they did a year ago. These two realities do converge in the need to examine our entire criminal justice system.

I say again to the one or two people on the Republican side who are not allowing this to come to a vote, this is not a controversial measure. The top three corrections associations in this country want to see it happen, as do people on the other side.

I hope we can get a vote before the end of the year on this legislation and start fixing our criminal justice system.

UNITED STATES RELATIONSHIP WITH CHINA

The main purpose of my speaking today is to join with Senator SCHUMER in stating to our colleagues and to the people of this country that we need to have the courage and the wisdom to reconfigure our relationship with China in a way that reflects more clearly its emerging status economically and in terms of our own national security and the security of the East Asia region. This has been an incremental process. I have been talking about the need to balance a relationship with China for 20 years.

Actually, I will begin these remarks by reading from an article I wrote for the Wall Street Journal 9½ years ago. I wrote:

China engaged in a massive modernization program . . . It shifted its aviation doctrine from defensive to offensive operations, including the ability for long-range strikes throughout Southeast Asia. It has continually rattled its sabers over the issue of Taiwan. It has laid physical claim to the disputed Paracel and Spratly Island groups, thus potentially straddling one of the most vital sea lanes in the world. In the last year—

And this meant 2000 and 2001—

it has made repeated naval excursions into Japanese territorial waters, a cause for long-term concern as China still claims Japan's Senkaku Islands, just to the east of Taiwan, and has never accepted the legitimacy of Okinawa's 1972 reversion to Japan.

This is rather relevant, even though this was written 9½ years ago, as we examine Chinese activities in areas in the South China Sea and the need for us as a nation to stand alongside the other countries in this region on issues of sovereignty.

Just in the past 3 weeks, we saw an altercation in the Senkaku Islands.

By the way, I mentioned the Senkaku Islands in a debate in my campaign 4 years ago, asking my opponent what he thought we should be doing there. There were some who thought I was being a little bit arcane by mentioning a place of which few people had ever heard.

It is a major flashpoint between China and Japan. Both claim these islands just off Taiwan. We saw a very serious diplomatic confrontation with the potential to have a military confrontation just in the past couple of weeks in the Senkaku Islands. The Chinese still claim the Paracel Islands, which Vietnam also claims. They have made naval incursions there. They claim the Spratly Islands, which are also claimed by other countries, including the Philippines, Vietnam, and Borneo. This is a very serious matter in terms of how we approach the stability of East Asia.

There was a column written in the Washington Post on Sunday, the title of which was "The South China Sea, China's Caribbean." I emphasize to my colleagues that this is not the Caribbean in terms of the stakes and the threat of the wrong sort of action in this region. From the Strait of Malacca, where a huge percentage of the world's oil and cargo passes, up through the South China Sea into Japan, South Korea, Taiwan, we see a tremendous amount of world trade move through there.

In Southeast Asia, in the ASEAN countries, we have 650 million people. We have almost 1 billion people living not in China but in this region who would be affected by Chinese sovereignty claims if we do not responsibly assist this region in getting a balance.

This is happening at a time when I think we have deluded ourselves as a nation for economic reasons as to the nature of the governmental system in China. We tend to look at these as comparable governmental systems because we have such a high reliance on trade. And Senator SCHUMER is going to talk about the trade aspects of this issue.

Just as one little data point, every year the Freedom House publishes a record of the freedom of the press. It ranks countries in the world in terms of global press freedom. In their last ranking for 2009, China ranked 181 out of 195 countries in terms of freedom of the press inside the country. Of the 40 countries in Asia, the only countries that scored lower than China in terms of freedom of the press were Laos, Burma, and North Korea.

The second-tier countries in East and Southeast Asia watch very closely how the United States articulates its relationship with China. History warns them that they must hedge their bets against eventual change. And any failure by the United States to take firm action when the Chinese manifest aggressive behavior is viewed in this region as a sign of a permeating weakness in the United States.

The reality of a smaller size of our naval forces, the turbulence, at times, with relationships we have had with countries that are friends, the mistreatment and sometimes neglect of our major ally, Japan, causes some to wonder if China will become so powerful that we will abandon our friends.

On the one hand, this is an administration that has done a good job in terms of reconnecting with eastern Southeast Asia. Secretary Clinton made a strong statement in July at the ASEAN conference about the importance of these sovereignty issues.

On the other hand, we have a situation that is now evolving. It is continuing between Japan and China over the Senkaku Islands, where we must be very clear in our signals to China that we will not tolerate instability that can be created with false claims of sovereignty in these regions. There are ways to resolve these sovereignty issues, and the expansionist pressure from military actions and other actions is not the way to do that.

My major point today is that we must reinvigorate our vitally important relations with the ASEAN countries and our allies—Japan, Korea, the other treaty allies we have—in order to maintain the stability in this region, to maintain our own national interest in this region economically, with regard to security, diplomatically, and culturally, and ultimately in the long term for a proper balance between our country and China. This will only be done if we stay with our friends and articulate very clearly to China that the wrong type of behavior is not going to be rewarded with a weak form of behavior by the United States.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

Mr. WYDEN. I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

#### SECRET HOLDS

Mr. WYDEN. Madam President, there are currently 48 vacancies on courts that the Federal judiciary considers to be judicial emergencies. Let me restate that. Filling these vacancies is now such a priority that they are considered judicial emergencies. One of those vacancies considered to be a judicial emergency is one of the positions for the U.S. District Court for Oregon. My view is this problem is only going to get worse with another 20 judges having announced plans to retire. If these positions remain vacant, we all understand it could delay trials and certainly justice delayed is justice denied.

The stalling of judicial nominations also discourages qualified candidates

from serving on the bench. Those the country most needs on the bench cannot put their lives on hold for months or years while their nominations sit on the Senate calendar, blocked for no apparent reason.

One of the things that is most striking about how the country has gotten into this predicament is that experts who have analyzed the situation with respect to the delay in getting judges confirmed come back to Senate procedures as a significant factor in the holdup. Repeatedly, these independent experts say the Senate's secret hold, the process by which one Senator, just one, can anonymously block a judicial nomination from being considered on the floor of the Senate, is a central factor in the delay in getting these judges confirmed.

I have come to the Senate floor today to say, when we have so many designated judicial emergencies, when there are so many individuals who have won bipartisan support, and a big factor in not getting judges confirmed is the Senate is unwilling to do public business in public, it suggests to me it is time to eliminate the secret hold which is keeping sunshine from coming to the Senate when it comes to the consideration of judicial nominations and other important business.

Fortunately, colleagues on both sides of the aisle—a big group on our side of the aisle and a big group on the other side of the aisle—have repeatedly said they want to come together, end secret holds, and do public business in public.

At this time I would particularly like to commend my colleague from Iowa, Senator GRASSLEY, who has spent well over a decade working on this effort with me, and also single out Senator MCCASKILL from Missouri, who has done outstanding work as well mobilizing colleagues from both sides of the aisle, and who also wants to have this procedure changed and have new accountability and sunshine in the Senate.

All we need to be able to do is get this out in front of the Senate—frankly, out in front of the American people—so they can find out who is in favor of transparency, who is in favor of accountability, and who still thinks we ought to do business behind closed doors.

Some in the Senate continue to claim a secret hold does not prevent the Senate from consideration of a nomination or piece of legislation. They say, for example, the majority leader can always file what we know as cloture on that nomination or bill to overcome a hold. That may be true in theory, but for all practical purposes it cannot be done. The process of filing cloture on a nomination certainly can gobble up almost a week on the Senate schedule. So the Senate could easily spend the remainder of the time remaining this year with votes on just a few nominations now on the Executive Calendar and still not come close to clearing the backlog of nominations.

The fact is, a secret hold can effectively kill a nomination or piece of legislation.

As we have said, our big bipartisan group in the Senate repeatedly has said all of this secrecy, all of this work to keep the public from finding out what is going on—all of it can be done without anybody, any colleagues in the Senate or the American people, knowing who was the secret obstructor and why they were, in fact, obstructing.

There is one other point I would like to make, particularly with so much of the country looking at how Washington, DC, works and how broken so much of our system is; that is, how much power a secret hold provides to a lobbyist. I am sure virtually every Member of the Senate has at some point gotten a request from somebody who is a lobbyist asking if the Senator would put a secret hold on a bill or nomination in order to kill it—to kill it without getting any public debate and without the lobbyist's fingerprints on it anywhere.

Certainly, if a lobbyist finds it possible to get a Senator to put an anonymous hold on a bill, it is pretty much like hitting the lobbyist jackpot. Not only is the Senator protected by the cloak of anonymity, but so is the lobbyist, and in effect, through secrecy, a secret hold can let the lobbyist play both sides of the street. It can give a lobbyist a victory with clients without alienating a potential or future client.

Given the number of instances where I heard a lobbyist asking for secret holds, I think it is fair to say a secret hold is in effect a stealth extension of the lobbying world.

So when you think about the powers that lobbyists already have, why in the world would you want to give them another tool, the secret hold, which could, as I have characterized it, literally be a stealth extension of the lobbying world. I think it makes no sense at all, and I come down on the side of openness and transparency.

I congratulate my colleague, Senator GRASSLEY from Iowa, who stood with me, and Senator MCCASKILL—a big group of colleagues from both sides. On the other side of the aisle, Senator COLLINS, Senator INHOFE, and others have spent a great deal of time. Here it has been Senator WHITEHOUSE, Senator UDALL, and the presiding officer, Senator GILLIBRAND—a whole host of colleagues, Democrats and Republicans, who think it is time, when the American people are obviously so angry at the way Washington, DC, does business, to make it clear that we are all going to come together and change the process of letting an individual Senator obstruct the people's business in secret.

It seems to me the bottom line is that a secret hold is literally an indefensible denial of the public's right to know, particularly at a time when there is so much frustration and anger at the way business is done in Washington, DC. The public's right to know

ought to be sacrosanct. Certainly, we are talking about the kind of matters Democrats and Republicans talk about all the time in public. Nobody is talking about national security or classified matters being brought out here for the kind of sunshine that I and Senator GRASSLEY and Senator MCCASKILL want to bring to the Senate. This is about the people's business—legislation and nominations, those judicial emergencies and the scores of appointments that are being held up, pieces of legislation that involve millions of people and billions of dollars. It seems to me there ought to be public disclosure. There ought to be consequences if a Senator fails to disclose a secret hold.

In the interest of dealing with the crisis in our courts and the importance of bringing public business to the floor of the Senate, I hope my colleagues will come together and quickly pass the bipartisan proposal which will once and for all eliminate secret holds.

There have been past attempts. Senator GRASSLEY and I were able, as part of the ethics legislation, to get a provision through that we hoped would make a big difference. What happened then is, the friends of secrecy went back and found other ways to get around it. It is time once and for all to strangle secret holds. That is what a bipartisan group in the Senate wants to do, and it is important that measure be enacted and enacted quickly.

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

The PRESIDING OFFICER (Mr. KAUFMAN). The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, I ask unanimous consent that the Presiding Officer, Senator KAUFMAN, be recognized for 10 minutes as though in morning business—during that period, I will preside—and then that I be recognized for up to 10 minutes as though in morning business while the Presiding Officer resumes the chair.

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

Mr. LEVIN. I thank the Chair.

(Mr. LEVIN assumed the chair.)

The PRESIDING OFFICER. The Senator from Delaware is recognized.

#### EQUITY MARKETS INTEGRITY

Mr. KAUFMAN. Mr. President, I come to the floor one final time to talk about the integrity of our equity markets, a subject I have made a central focus of my Senate tenure. It is an issue that has gained increasing attention, especially since the May 6 flash crash, yet still lacks fundamental transparency, regulation or oversight.

A year ago, I wrote to Mary Schapiro, Chairman of the Securities and Exchange Commission, to outline my concerns. Seven times since then I have come to the Senate floor to talk

about the dramatic changes taking place in our equity markets, discussing obscure practices such as colocation, naked access, flash orders, and the proliferation of dark pools. But the most striking change has been the rise in high frequency trading which has come to dominate equity markets and now accounts for well over half of all daily trading volume.

My message about high frequency trading has been straightforward. The technological advances and the mathematical algorithms that have allowed computers to trade stocks in millionths of a second in and of themselves are neither good nor bad. Indeed, as an engineer, I have a deep appreciation for the importance of technological progress. But technology cannot operate in a vacuum, nor should it dictate how our markets function. Simply put, technological developments must operate within a framework that ensures integrity and fairness. That is why our regulatory agencies are so critically important. Because while technology often produces benefits, it might also introduce conflicts that pit long-term retail and institutional investors against professional traders who are in and out of the market many times a day.

As Chairman Schapiro has consistently asserted, including in a letter to me over a year ago:

If . . . the interests of long-term investors and professional traders conflict . . . the Commission's focus must be on the protection of long-term investors.

Many people have asked me why I focused so intently on the arcane details of how stocks are traded during my time as a Member of the Senate. There are several reasons. First, it is Congress' job not just to look backward and analyze the factors that brought about the last financial crisis, it is also our job to be proactive and identify brewing problems before they put us into a new financial crisis.

Second, we simply must protect the credibility of our markets. I have said time and again that the two great pillars on which America rests are democracy and our capital markets. But there is more at stake than a structural risk that could bring our market once again to its knees as occurred on May 6. There is a real perceptual risk that retail investors will no longer believe the markets are operating fairly, that there is simply not a level playing field.

If investors don't believe the markets are fair, they won't invest in them. And if that happens, we can all agree our economy will be in serious trouble.

Third, we should have learned the lesson from derivatives trading that when we have opaque markets that are nontransparent, disaster is often not far behind.

It is hardly surprising that high frequency trading should deserve a watchful, and possibly critical, government eye.

It is simply a truism that whenever there is a lot of money surging into a

risky area, where change in the market is dramatic, where there is no transparency and therefore no effective regulation, we have a prescription for disaster.

We had a disaster in the fall of 2008, when the credit markets suddenly dried up and our market collapsed and almost brought down not only our financial system but the financial systems of the world.

We had a near disaster on May 6, 2010.

Soon, the SEC will issue a second report on the causes of that May 6 flash crash.

I hope the SEC has moved much closer to truly understanding the dramatic changes in market structure that have taken place in the past few years, the potential ramifications of high frequency trading, and its impact on retail and institutional investors.

But this is about more than investor confidence. The primary function of our capital markets is to permit companies to raise capital, innovate, and grow in order to create jobs.

Publicly traded companies employ millions of Americans and are at the heart of our economy.

Their stock symbols should not be used simply as the raw material for high frequency traders and exchanges and other market centers more concerned with churning out serving long-term trade volume than investors and supporting fundamental company value.

Perhaps it is not surprising that our IPO markets—initial public offering markets—have deteriorated dramatically and only seem to work for the largest public offerings worth several hundred million dollars.

Indeed, the IPO situation today is so dire that had it been the case two decades ago, many of our most famous U.S. corporations, including Dell, Yahoo, Computer Associates, and Oracle, among others, might never have been nurtured—or perhaps even born.

Many people, including the consulting firm Grant Thornton, link this phenomenon directly to the rise of high frequency trading under a one-size-fits-all set of market rules that favors efficiency of trading above all else.

As for the Securities and Exchange Commission, I believe the SEC is still in the early stages of what I hope will be an extraordinary turnaround.

After years of deregulatory fervor which sapped morale and led to an egregious case of regulatory capture, we now have an emboldened agency, with a beefed up enforcement division, a serious chairman, and an invigorated staff.

That was evident in last week's hearing that I chaired in the Judiciary Committee on the Fraud Enforcement and Recovery Act.

The commission must still reform the way it gathers the facts it needs to study market issues and particularly high frequency trading.

Evidence-based rulemaking should not be a one-way street in which all

the “evidence” is provided by those whom the SEC is charged with regulating.

We need the SEC to require tagging and disclosure of high frequency trades and to quickly implement a consolidated audit trail so that objective and independent analysts—in academia, private analytic firms, the media, and elsewhere—are given the opportunity to study and discern what effects high frequency trading strategies have on long-term investors.

They can also help determine which strategies should be considered manipulative.

The recent “layering” case brought by FINRA against a high frequency trading firm was a good start, but much more needs to be done to end the “wild west” trading environment that today is eroding market integrity.

We cannot afford regulatory capture nor can we afford consensus regulation, not in any government agency, but especially not at the SEC, which oversees such a systemic and fundamental aspect of our entire economy.

Colocation, flash orders, and naked access are just a few practices that were fairly widespread before ever being subjected to any regulatory scrutiny.

For our markets to remain credible—and it is absolutely essential that they do so—it is vital that regulators be proactive, rather than reactive, when future developments arise.

After a year of intense study by me and my staff, I sent a letter to the Securities and Exchange Commission on August 5, 2010, with my best summary of the market structure problems and potential solutions the commission faces.

I will now wait for the SEC report and findings before I add or subtract from my views, as expressed in that letter.

Though this work must be completed in my absence, I will continue to speak out on market structure issues long after I leave the Senate.

Because if we fail, if we do not act boldly, if the status quo prevails, I genuinely fear we will be passing on to my grandchildren a substantially diminished America: one where saving and investing for retirement is no longer widely practiced by a generation of Americans and where companies no longer spring forth from the well of capital flows that our markets used to provide.

Wall Street is a business like any other business in America. But it is also different in one important way: It is Wall Street that gathers up the hard-earned cash of millions of Americans and allows them to invest in capital markets that up until now have been the envy of the world.

These markets, like all markets, will ebb and flow.

But they should never be brought down by inherent structural problems, by trading inequities, or by opaque operations that shun transparency.

Wall Street holds a piece of American capital, our collective capital, and it has a real and profound responsibility to handle it fairly.

But that entails another obligation as well: to come to the table and play a constructive role with Congress and the Securities and Exchange Commission in resolving its current issues—especially the possibility of high frequency trading manipulation and systemic risk.

For too long, many on Wall Street have urged Washington to look the other way, to accept the view that all is fine. If Wall Street does not engage honestly and constructively, then these issues must be resolved without their input, and resolve them we will.

The credibility of our capital markets is too precious a resource to squander; as I say every time I have the chance, it is a fundamental pillar of our Nation. And if it is now threatened, Congress and the regulatory agencies will surely act.

We can fashion a better solution with industry input, not a biased solution, but a better solution, one that should benefit Wall Street in the long term, one that must benefit all Americans now. The American people deserve no less.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Michigan. COMMENDING SENATOR TED KAUFMAN

Mr. LEVIN. Mr. President, I come to the floor today simply to thank my friend, the Senator from Delaware, for his extraordinary work in the Senate and to make a comment on some of the things he has been working on.

Since coming to this body, Senator KAUFMAN has proven to be a tireless advocate for his State of Delaware and the country, and his remarks he just provided are further evidence of that.

Senator KAUFMAN joined us here and joined me on the Permanent Subcommittee on Investigations, where he and his staff dug deeply into the weeds of financial statements and e-mails in efforts that helped ferret out some of the astonishing findings of our hearings into the causes of the financial crisis. Senator KAUFMAN’s dedication and thoughtful questioning during those hearings helped expose some of the root causes and crass conflicts of interest that led to the crisis that brought our economy to its knees.

I also want to make particular note of Senator KAUFMAN’s work on high frequency trading, flash trading, and other trading market issues, where those with powerful computers are able to exploit weaknesses in our regulatory systems to their own financial advantage, while hurting long-term investors and hurting the real economy.

Senator KAUFMAN cares deeply about these issues, and he has voiced his concerns about them in this Chamber for over a year. Last year, he called for a ban on flash trading, a practice in which some firms pay for a “sneak peak,” only a few thousandths of a sec-

ond long, at trades. With their computers, those firms can take advantage of that split-second head start on market-moving trades. The Securities and Exchange Commission is working on rules to ban the practice, and I join Senator KAUFMAN in urging that this practice be stopped.

Senator KAUFMAN has studied the trading markets in great detail, communicating with regulators and industry participants. He has learned that our regulatory system for monitoring trading is outdated and that the technology and capabilities of those who seek to exploit loopholes in the rules or avoid them altogether have too often outpaced those tasked with their oversight.

Senator KAUFMAN has come to this floor many times over the past several months to warn us of the risks of our current trading market structure, and of his concerns with the inadequate regulatory process we have to police them.

On August 5, he sent a letter to Securities and Exchange Commission Chairman Schapiro outlining proposals to address some of those concerns. His thoughtful proposals make a significant contribution to the debate over how to make our financial system safer.

On May 6 of this year, we all watched helplessly as the stock market plunged nearly 1,000 points in a few minutes. While the regulators have committed to studying it and are expected to release their report soon on the root causes of that “flash crash,” I cannot help but think that we in Congress owe it to families and businesses around this country to better understand what happened and to make sure we do what we can to stop it from happening again.

Although Senator KAUFMAN will soon be departing this body, we must continue his work so that those who seek to exploit our markets to the detriment of long-term investors and the real economy will not be able to do so without a battle from the Senate. Senator JACK REED is committed to doing just that. He held a hearing in May shortly after the flash crash in which he looked into the causes of the crash. I will join him and others and do all we can to respond to these high-tech threats to market fairness and transparency.

The world of trading stocks, bonds, commodities, and other financial instruments today occurs on two levels. There are those who invest for the long haul, investing in companies and products they expect to do well for some time. They drive our economy. But then there are those who seek to “invest” for thousandths of a second or just long enough to profit on split-second price swings. These traders argue that they provide “liquidity” to the markets, but in many cases they are actually hurting the markets by promoting volatility and undermining the integrity of those markets.

As Senator KAUFMAN said, we owe it to the millions of families who have

their savings in the markets and to the businesses that rely on the markets for the capital they need to survive and grow to make sure our markets function properly. I applaud Senator KAUFMAN for his extraordinary work on these issues and other issues in the Senate. I thank him for his service. One way for us to recognize that service is to continue his quest for more fair and transparent markets.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. BROWNBACK. I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

(The remarks of Mr. BROWNBACK are printed in today's RECORD under "Morning Business.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### THE SHERERS: ADOPTION ANGELS

Mr. JOHANNIS. Madam President, Scott and Nicole Sherer, of Lincoln, NE, are extraordinary Nebraskans who opened their hearts and homes to four beautiful children in need of parents. This is a tale of love, devotion and caring.

In 2007, Nebraska officials found a young boy named Darren, developmentally disabled—a victim of neglect.

The State removed Darren from the household and began to search for a foster family.

They didn't have to search far because Nicole and Scott Sherer were happy to take him into their home.

The following year, a little girl named Mariah was found to be a shaken baby and was taken to Children's Hospital.

Mariah's brother Christian was also removed from the home and the State again looked for a healthy home.

Once again, the Sherers did not blink. Two more children needed parents; they needed a home. Two more children found their family.

And this exceptional family still had more room in their hearts and their home.

Two year later, Darren's sister Desiree was born and was delivered to the Sherers from the hospital.

They formally adopted Christian and Mariah in April 2009 and then adopted Darren and Desiree in July 2010.

During this time, they were able to provide a safe, healthy home for a fifth little boy until a permanent home could be found. The family was able to keep the biological siblings together and provide a loving home for four children.

And the new family began their lives together.

Nicole and Scott recently celebrated their seventh wedding anniversary. They have taken in four children in need and consider themselves to be blessed.

I have great admiration for foster and adoptive parents, and I was thrilled to nominate Nicole and Scott Sherer as Adoption Angels.

Their commitment to care for these four children, to give love freely, is an inspiration for all. It is my hope that their example will inspire other couples to open their hearts and homes to children awaiting adoption.

May God bless Nicole, Scott, Darren, Desiree, Christian, and Mariah, as well as all adoptive parents who give children the gift of a loving family.

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.

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

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

(The remarks of Mr. REED are printed in today's RECORD under "Morning Business.")

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

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

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

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

#### CHINESE CURRENCY MANIPULATION

Mr. SCHUMER. Madam President, I am pleased to join my colleague, Senator WEBB, in discussing serious concerns with Chinese economic and foreign policies and their impact on the United States, U.S. companies, U.S. workers, and U.S. citizens.

Earlier, we were supposed to speak together, but the vicissitudes of the floor broke us up. Earlier today, my esteemed and erudite colleague, Senator WEBB, gave an excellent address, which I hope my colleagues will read, about how China is simply taking advantage in the foreign policy area. They are pursuing policies that just move forward without any concern for the world community, for peace, for com-

ity. It seems China is first, second, and third.

Unfortunately, they are doing the same thing in the economics sphere. I have been working with colleagues such as Senators STABENOW, BROWN, and GRAHAM to try and reverse this situation.

I rise to speak about what many of us consider the biggest sticking point in U.S.-Chinese relations: Chinese overt and continuous manipulation of its currency to gain a trade advantage over its trading partners.

The Economic Policy Institute estimates that 2.4 million American jobs were lost or displaced in manufacturing and other trade-related industries between 2001 and 2008 as a result of increased trade with China and the Chinese Government's manipulation of currency. New York has suffered some of the biggest losses with over 140,000 jobs lost or workers displaced over the past 10 years.

Accession to the WTO was supposed to bring China's policies in line with global trade rules meant to ensure free but fair trade. Instead, China has flouted those rules to spur its own economy and export-oriented growth at the expense of its trading partners, including the United States. Clearly, our relationship in the economics sphere, as well as the foreign policy sphere and diplomatic sphere, with China needs fundamental change.

I say that loudly and clearly to the Chinese because they seem to think we are patsies. Past policies might give some corroboration to that view. Let me explain.

Six years ago, Senator GRAHAM and I came up with the idea of doing something about manipulation of currency. At first everyone said: Oh, no, this is not a problem. There were editorials in both the Wall Street Journal and New York Times that said it is OK for China to peg its currency. We were attacked from the far right and the far left and many others.

Now, at least we have made some progress. Everyone admits it is a problem. Now that we have consensus—quite broad consensus—that this is a problem, this is wrong, this is unfair, the fundamental question hangs out there: Who is going to fix this problem and how?

The administration continues—this administration, and I say that as someone who is a supporter, who continues to pin its hopes on yet more talking. This despite the fact that years of meetings and discussions with this administration and the previous administration have repeatedly failed to produce any lasting, meaningful results.

It has been 3 months since China announced it would allow its currency to appreciate for the first time since the middle of 2008. The RMB has risen less than 2 percent against the dollar, most of that appreciation taking place in the last 2 weeks.

President Obama met with Chinese Premier Wen last week to urge quicker

evaluation of his country's currency. He got nothing, nothing—a big goose egg—for his efforts. It is not his fault; it is the fault of the Chinese. But when are we going to change things?

According to news reports, Premier Wen gave a standard response about gradual reform. The upcoming G20 summit in Seoul looks similarly devoid of possible progress on this issue. News reports suggest that none of the other countries are willing to push China on this issue.

Each time I have pushed the administration to take a tougher stance against China's manipulation of currency; each time they have vowed to do so. It is plain and simple: It is not working. China is merely pretending to take significant steps on its currency. This sucker's game is never going to stop unless we finally call their bluff.

China's mercantilist policies continue to undermine the health of many U.S. industries that inject billions of dollars into the U.S. economy and employ hundreds of thousands, millions of American workers. We have to do something about it—something real.

Last week, the House Ways and Means Committee voted out a bill that clarifies countervailing duties can be imposed to offset the effect of undervalued currency. I applaud Chairman LEVIN for taking a concrete step toward addressing the persistent imbalance created by China's undervalued currency. Effective enforcement of our trade laws is one tool the administration can and should use to counter China's mercantilist currency policies.

But the administration could use more than one ace up its sleeve. And that is what my bill, introduced with Senators STABENOW, GRAHAM, BROWN, BROWNBACK, WEBB, SNOWE, and others—bipartisan, across the political spectrum—would provide.

The bill gives the administration additional tools to use if countries fail to adopt appropriate policies to eliminate currency misalignment and includes tools, including the use of the countervailing duty law, to address the impact of currency misalignment on U.S. industries.

I call on the administration to support our legislation to address China's mercantilistic exchange rate policies. We must stand up for American manufacturers, American workers, and American jobs. We have to prevent the flow of billions of dollars out of our country—wealth we will never recover—every quarter as long as the Chinese continue this policy.

Critics of our bill say it would start a trade war with China, but that is not right because American companies are already fighting a war for survival in China—battling market access limitations, intellectual property theft, indigenous innovation policies, and unfair competition from heavily subsidized domestic State-owned enterprises. When are we going to learn?

Critics of our bill say it will not solve the trade deficit with China. We have

never claimed it will totally solve the deficit, that is for sure. The bill is about fair trade. The bill is about a ceramics manufacturer in upstate New York that has developed a great new product that can clean the air as it goes through our new generator turbines. But China is stealing the product and is now going to sell it back to the United States at a 30-percent advantage. You can't even measure the loss we face because of China's unfair policies on currency.

Yes, critics of our bill have said it will not solve the trade deficit, but as I said, this has never been the claim. It will reduce the trade deficit, without doubt. It will keep wealth in the United States, it will keep American jobs, and it will restore some equilibrium to the American economy and the world economy.

Other critics have said China could retaliate by selling some of the trillions of dollars of Treasuries they currently hold, but we know this will not happen. China is not going to cut off its nose to spite its face. Its major wealth asset they are going to devalue? Hello, as my kids might have said when they were younger.

We must take a decisive step against China's currency manipulation and other economically injurious behavior. We have no choice but to defend and protect U.S. jobs and the U.S. economy unless and until China starts behaving like the international, law-abiding, global, emerging power it seems to be recognized as. Once and for all I say to those in the ivory towers who love to look down upon us but who don't look at the facts, the issue is not U.S. protectionism; the issue is China's flouting the rules of free trade in almost every sphere and never budging unless they are pushed to.

This is one reason why when the Senate reconvenes later this year, my colleagues and I intend to move forward with the legislation to provide specific consequences for countries that fail to adopt appropriate policies to eliminate currency misalignment and give the administration the additional tools it needs to address the impact of currency misalignment on U.S. industries.

I say to those at the other end of Pennsylvania Avenue, as well as in Beijing, this issue cannot wait for another year. It cannot wait for another new Congress. I am confident this bill will pass the Senate with overwhelming support.

Let me conclude by noting that over the past 6 years, my colleagues and I have been sending a message to the Chinese Government about their exchange rate policies and other WTO-inconsistent behavior, but apparently they refuse to listen. Ultimately, if you refuse to play by the same rules as everyone else, we will hold you accountable. Chinese currency manipulation would be unacceptable even in good economic times, but at almost 10 percent unemployment, we can't stand for it. There is no bigger step we can take

than to confront China's currency manipulation.

Praise God, this is not a Democratic or Republican issue. We have broad bipartisan cosponsorship of our legislation. No one is seeking to gain political advantage. We are simply seeking to restore economic fairness. Every single one of us has manufacturers that are struggling to compete at home and abroad with Chinese exports with a built-in 20- to 40-percent price advantage. This is not about bashing China; it is about defending the United States before it is too late—before the loss of jobs and wealth that flows out of this country is almost irreparable. I call on my colleagues to join in the defense.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

Mr. INHOFE. I ask unanimous consent I be recognized as in morning business.

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

#### ENVIRONMENTAL OVERREGULATION

Mr. INHOFE. Madam President, I released today a minority staff report of the Senate committee on Environment and Public Works. When Republicans were in the majority I chaired the committee and now I am the ranking member, minority member. We have been concerned for quite some time now that the heavyhanded overregulation we are getting from the Environment and Public Works Committee is taking its toll on American jobs. So we released this and documented a report that examines the impact on jobs and the economy from all these EPA rules and EPA regulations.

We are covering four areas. The focus is on the boiler MACT regulations, the revised National Ambient Air Quality Standards for ozone—we are all concerned about that—I notice the new cement MACT regulations, and the endangerment findings. These are just four rules that are costing us a lot of jobs.

There are many others we could be talking about, in fact we are going to be talking about in the near future: standards for cooling water intake structures at powerplants, National Ambient Air Quality Standards for dust and particulate matter—actually, they are talking about doing one now for farm dust. I am from Oklahoma. A lot of people back here don't understand when you grow something you have to grow it in dirt. When the wind blows that is dust, but you can't regulate it. But they think they can—the new source performance standards for coal-fired powerplants and refineries, and the rules governing disposal of coal combustion waste.

What does it all mean? The American Forest and Paper Association estimates, and I am quoting them:

... about two dozen new regulations being considered by the Administration under the Clean Air Act, if all are promulgated, potentially could impose on the order of \$17 billion in new capital costs on papermakers and wood products manufacturers in the next five to eight years alone.

That is just for one industry. You have all the other industries that will be affected.

Before I begin, let me say the Clean Air Act was a success. I have always been a supporter of the results of the Clean Air Act. We now have cleaner air from cars, from factories, and powerplants. It has been very successful. In fact, when we were a majority and I chaired that committee, we had the 3P regulations, we had the Clear Skies regulations we tried to promulgate—we have been attempting to do this for a long period of time. However, if we are going to be competing with other countries, this overregulation is going to do nothing but send our jobs to places such as China and India and Mexico.

Of the four areas I mentioned, the first is the boiler MACT. The MACT means maximum achievable control technologies. Forget about that, just call that regulation.

The first one, the regulations, would be the boiler MACT. It would impose stringent emission limits on monitoring requirements for 11 subcategories of boilers and process heaters.

The proposed rule covers industrial boilers used in manufacturing, processing, mining, refining, as well as commercial boilers used in malls, laundries, apartments, restaurants and hotels.

The Industrial Energy Consumers of America, which represents companies with 750,000 employees, said they are "enormously concerned that the high cost" of the boiler regulations will leave companies no recourse but to shut down the entire facility, not just the boilers.

This is what the econometrics firm IHS-Global Insight found in its analysis of the EPA's proposal, just the one proposal. They concluded that the proposal could put up to 798,000 jobs at risk. Moreover, they said every \$1 billion spent on upgrade and compliance costs will put some 16,000 jobs at risk and reduce the U.S. GDP by as much as \$1.2 billion.

The EPA's pending boiler regulations also threaten my home State of Oklahoma. We have one group, a company called Covanta Energy, which in 2008 reopened the Walter B. Hall Resource Recovery Facility, a waste-to-energy plant.

This happened, actually, when I was mayor of Tulsa many years ago. We had two great needs: one to dispose of waste and the other to create energy. So we did one of the first waste-to-energy plants in America. It was done back in the early 1980s when I was mayor of Tulsa. This is something that

has been working out and working successfully. But they are saying it could threaten the viability of this operation, and it is not just in my State of Oklahoma but all over the country.

These concerns are shared by 40 of my colleagues, including 18 Democrats, who wrote Lisa Jackson—she is the Administrator of the Environmental Protection Agency—a letter. Keep in mind, half of these are Democrats.

As our Nation struggles to recover from the current recession, we are deeply concerned that the pending Clean Air Act boiler MACT regulations could impose onerous burdens on U.S. manufacturers, leading to the loss of potentially thousands of high-paying jobs this sector provides. As the national unemployment rate hovers around 10 percent, and federal, state and municipal finances continue to be in dire straits, our country should not be jeopardizing thousands of manufacturing jobs.

That is a quote from a letter, half Democrats, half Senators, 40 of us, to Lisa Jackson of the Environmental Protection Agency.

Just in the area of boiler regulation, one of the four I am going to talk about, potentially 1 million jobs could be lost. This is the problem we are having with the overregulation in this country. We have two major problems: overregulation and the fact we are not developing any power anymore, we made it so difficult. We have not had a new coal-fired powerplant in this country for quite some time. Yet China is cranking out two of them every week. This is our competition over there.

The second area is ozone. On January 6 of this year, for the second time in less than 2 years, the EPA proposed tightening the NAAQ standards for ground level ozone. Specifically, the EPA is proposing to strengthen the 8-hour "primary" ozone standard. The EPA estimates that setting the primary standard within its proposed range will cost between \$19 and \$90 billion. That is the EPA's estimate. This proposal comes at the heels of the 2008 ozone standard, which created a serious problem. The CAA, Clean Air Act, only requires revision at least 5 years. That was just 2 years ago. Now they are talking about doing it again. So the EPA is not required to revise the status quo.

Meanwhile, States are in the midst of trying to meet the 2008 requirements while some communities are not in compliance with the 1997 standards, the time they did it before.

EPA announced it is delaying the new standards until late October. Guess what. We are there. My guess is they will be delaying it until after the election because they don't want to know what hardship they are imposing upon the American people before the election. It is not hard to see why. Whatever level EPA ultimately picks, it will dramatically increase the number of so-called nonattainment areas nationwide.

Based on the 2008 air quality data, we could see as many as 608 new non-attainment areas, with many of them

highly concentrated in manufacturing regions, in States relying on coal for electricity.

What does the nonattainment mean? For local communities, such as my communities in Oklahoma, it can mean loss of industry and economic development, including plant closures; loss of Federal highway and transit funding; increased EPA regulation and control over permitting decisions; increased costs for industrial facilities to implement more stringent controls; and increased fuel and energy costs.

In my State of Oklahoma, at least 15 counties would face new restrictions right now, under the 2008, and there are two counties that would be out of attainment. All these things would happen. You can't go out and recruit industry, they close down a lot of industries there now. I have listed in these remarks that will be part of the RECORD 15 counties in my State of Oklahoma that could be facing these new restrictions.

We all support cleaner air, but here is where the Obama EPA and I disagree. It should not come at the expense of people's jobs or the economy. Apparently, I am not the only one thinking this way.

On August 6, 2010, a bipartisan letter—this is the third one I am mentioning now—was sent to the EPA Administrator on the Agency's ozone reconsideration. It was signed by Senators VOINOVICH, BAYH, LUGAR, LANDRIEU, VITTER, MCCASKILL, and BOND. That is an equal number of Democrats and Republicans. They said:

While we believe we can and should continue to improve our environment, we have become increasingly concerned that the Agency's environmental policies are being advanced to the detriment of the people they are intended to protect. That is, these policies are impacting our standard of living by drastically increasing energy costs and decreasing the ability of our states to create jobs, foster entrepreneurship, and give manufacturers the ability to compete in the global marketplace.

Again, that was just one of these four areas.

The third one would be the Portland cement regulations. This third rule is another regulation having to do with cement. According to the EPA, "a projected 181 Portland cement kilns will be operating at approximately 100 facilities in the United States by the year 2013." EPA's new emission standards under section 112 of the Clean Air Act will apply to 158 of that 181. About 7 kilns will be subject to the EPA's new source performance standards under section 111 of the Clean Air Act.

The cement industry is essential to America's economy. According to a study by the Maguire Energy Institute at SMU, the cement manufacturing industry in 2008 produced \$27.5 billion in GDP, \$931 million in indirect tax revenues for State and local governments, and sustained 15,000 high-paying jobs.

In addition to those 15,000 direct jobs, the industry has an "induced employment" effect, which helps create and

sustain an additional 153,000 jobs. “Importantly,” the Maguire Energy Institute noted “these are primarily high-wage jobs generating about \$7.5 billion annually in wages and benefits.”

According to the Portland Cement Association, EPA’s regulation puts up to 18 cement plants at risk of shutting down, threatening nearly 1,800 direct jobs and 9,000 indirect jobs, accordingly. I might add, one of these would be in my State of Oklahoma. These jobs in cement production would go to China. That is what a professor from King’s College in London said about the EPA’s rule—coming from London:

So rather than importing 20 million tons of cement per year, the proposed [rule] will lead to cement imports of more than 48 million tons per year. In other words, by tightening the regulations on U.S. cement kilns, there will be a risk transfer of some 28 million tons of cement offshore, mostly to China.

Senators VOINOVICH and LINCOLN wrote a bipartisan letter to Administrator Jackson, sharing these concerns back in February, saying:

In a very real sense, if a reasonable standard is not adopted in this matter, we anticipate that substantial cement capacity may move overseas to the detriment of industrial employment. . . .

And the detriment of hundreds of thousands of people in the United States.

The fourth is my favorite. To give just a little bit of background, way back when we had the Kyoto treaty in the 1990s, there was an effort at that time to say we have catastrophic things happening, global warming and all that, as a result of primarily man-made gases. They tried through the years to pass legislation. We had the 2003 and 2005 McCain-Lieberman bills. Then we had the Markey bills and the others. I think one was a Boxer-Sanders bill. All of them were essentially doing the same thing; it was called cap and trade. It was something I characterized as the largest tax increase in the history of this country.

As a matter of fact, during the consideration of all of these bills, they estimated—and this was several—MIT, CRA, and several other institutions said that the cost to America would be somewhere between \$300 and \$400 billion a year.

The rule discussed is the endangerment finding. As I have documented on the Senate floor before, the EPA promulgated its endangerment finding on greenhouse gases in December of 2009, which I said could lead to the greatest bureaucratic intrusion into the lives of the American people. It would trigger costly, time-consuming permitting requirements for new and modified stationary sources for greenhouse gases such as powerplants, factories, and refineries.

So the problem with this is that when the Obama administration saw that Congress was not going to pass these very punitive tax increases called cap and trade, they decided they were going to try to do it through regula-

tion. That is what this is all about. This is just one-fourth of the minority report we have out there that we introduced today.

The rule, in order to do this—and I will never forget because right before I went over to Copenhagen in December, we had a hearing in the Environment and Public Works Committee, and we had Lisa Jackson—I have a great deal of respect for her—before the hearing.

I said: Madam Administrator, I suspect that when I leave for Copenhagen tomorrow, you are going to have an endangerment finding.

An endangerment finding is a finding that will allow them to promulgate rules to do what they failed to be able to do in legislation.

I said: And to do that, it is going to have to be based on some science. What science would that be based on?

She said: Primarily, the science that came from the United Nations.

And the IPCC—since that time, there has been Climategate—told the truth about how they have been trying to cook the science over that period of time. So this is one that is really very serious.

But the U.S. Chamber found that if they are able to go ahead and use the emissions, it would affect 260,000 office buildings, 150,000 warehouses, 92,000 health care facilities, 71,000 hotels and motels, 51,000 food service facilities, 37,000 churches and other places of worship, and 17,000 farms. That is because they would be falling under the category—the 250 tons of emissions of CO<sub>2</sub> per year.

The greenhouse gas regulations will mean higher energy costs for consumers, especially for minorities and the poor.

I had the Catholic Charities in my office today. We had, actually, the man, who I learned just died this last week, with the Ohio Catholic Charities down for hearings when we were talking about all the things they were trying to do through the various bills on cap and trade. His testimony was—and these individuals were in my office today—that it disproportionately hurts poor people. For example, if someone is in poverty, there are just some things that person has to have—heating the home in the winter, transportation costs, costs that are necessary. If you are a wealthy person, that might constitute maybe 5 percent of your expendable income, but it could be 100 percent of the income of someone who is poor. So it disproportionately hurts the poor people.

This is why, on February 19, recognizing that he was going to lose a lot of jobs, Senator ROCKEFELLER, joined by seven of his Democratic colleagues, wrote—again, this is the fourth letter—to Administrator Jackson on their concern with the endangerment finding.

We write with serious economic and energy security concerns relating to the potential regulation of greenhouse gases from stationary sources under the Clean Air Act. We remain concerned about the possible impacts

on American workers and businesses and a number of industrial sectors, along with the farmers, miners and small business owners who could be affected as your energy agency moves toward the regulations for vehicle greenhouse gas emissions.

You know, as bad as things are right now, we are supposed to be able to knock down and the President said we are going to bring unemployment down to somewhere around 6 or 7 percent, and it is still right up there at 10 percent. These regulations haven’t even gone into effect yet. So that is going to cause the unemployment figures to be much higher.

So I think it is important to recognize right now, before it is too late, that something can be done about this overregulation right now, and I really believe this is the opportunity that we have.

This report we just released today is on my Web site, inhofe.senate.gov, and we have now been able to get this around the country so that people know that as bad as the unemployment and overregulation is that is costing American jobs, it could be a lot worse if these four regulations get into full effect. I think it is our job here in the Chamber to recognize that we have a very serious unemployment problem in this country, a very serious overregulation problem in this country, and we can now do something about it.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, what is the status of the Senate? What are we doing? Morning business?

The PRESIDING OFFICER. The Senate is under cloture on the motion to proceed.

Mr. REID. Thank you, Mr. President. WILDLIFE CONSERVATION AND ANIMAL WELFARE

Mr. REID. Mr. President, one piece of unfinished business we have here in the Senate is to move a series of good, commonsense bills that would benefit wildlife and domestic animals.

These wildlife conservation and animal welfare bills have already passed the House of Representatives, and for a good reason. They also have bipartisan support. Most importantly, all of these measures are supported by the American people. These aren’t Democratic or Republican issues; they are issues of good moral conscience.

I have worked over the years on many bills connected to animals and wildlife. Not long ago, Senator CANTWELL and I worked with a number of our Republican colleagues to pass a felony level penalty bill for dog fighting and cock fighting. This was a bipartisan rejection of animal cruelty.

Today, we have the opportunity to help a great number of species. One bill ready for action, the Shark Conservation Act, will improve Federal enforcement of an existing prohibition on the killing of sharks just for their fins. Because of a loophole in the existing law, animals are still caught, their fins are severed, and the dismembered shark is sent back into the ocean to die. But they don't just die, they suffer a horrible and protracted death—all of that cruelty for a bowl of soup.

Another important bill is the Marine Mammal Rescue Assistance Act, which will strengthen programs that provide emergency aid to seals, whales, and other marine creatures that get struck by boats or tangled in fishing lines. This happens all the time.

Other bills, such as the Crane Conservation Act, the Great Cats and Rare Canids Act, and the Southern Sea Otter Recovery Act, will protect some of the most rare and remarkable creatures anywhere on Earth. Without our help, many of these creatures could disappear within a generation.

I also wish to draw attention to the efforts of Senators MERKLEY and KYL today to clear an important bill that will end the appalling practice of animal crush videos. It is hard for me to comprehend what some people do. They torture animals and take pictures of them and sometimes sell those pictures. There are people sick enough to want to watch a little animal or a big animal be crushed and killed. They call them animal crush videos. The law we passed in 1999 outlawing these videos was struck down by the Supreme Court in April of this year. Senators KYL and MERKLEY have worked to write a more narrowly tailored bill that respects the first amendment while still punishing those who seek to profit from the torture of puppies, kittens, and other helpless animals.

As I understand it, the Supreme Court said you can't stop people from buying these videos to watch. But we can stop people from doing these terrible things that people want to watch.

I hope we can work these out and pass these by unanimous consent. Why do we need debate on these issues? These are good bipartisan bills that deserve to be passed.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I have a number of unanimous consent requests that I am going to ask. But I have been told the Republicans want to look a few of these over, and I have no problem with that. I can do it later tonight or tomorrow sometime. These are important issues. I have given a brief synopsis of some of the awful things going

on around the country as they relate to animals. We should do something to take care of this. I hope we can get these cleared. These are not great legal issues, but they are moral issues. If we can't treat animals in a fair way, we can't treat ourselves in a fair way.

When we come in, in the morning, I will ask for these consents. I appreciate my friend from Mississippi for his usual manner of being so courteous in allowing me to go forward with my statement.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. WICKER. Mr. President, I ask unanimous consent to be recognized as in morning business.

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

(The remarks of Mr. WICKER are printed in today's RECORD under "Morning Business.")

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

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

#### UNANIMOUS CONSENT AGREEMENT—S.J. RES. 39

Mr. DURBIN. Mr. President, I ask unanimous consent that on Wednesday, September 29, at 10 a.m., the Republican leader or his designee be recognized to move to proceed to the consideration of S.J. Res. 39, a joint resolution providing for Congress's disapproval under chapter 8 of title 5 United States Code of the rule relating to the status as a grandfathered health plan under the Patient Protection and Affordable Care Act; that there be 2 hours of debate on the motion to proceed, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on the adoption of the motion to proceed; that if the motion is successful, then there be 1 hour of debate with respect to the joint resolution, with the time divided as specified above; that upon the use or yielding back of time, the joint resolution be read a third time and the Senate then proceed to vote on passage of the joint resolution; provided further that if the motion to proceed to the joint resolution is defeated, that no further motion to proceed to the joint resolution be in order for the remainder of this Congress; further, that no amendments or any other motions be in order to the joint resolution, and that all other provisions of the statute governing consideration of the joint resolution remain in effect.

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

#### MORNING BUSINESS

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

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

#### NEVADA OPERA THEATRE

Mr. REID. Mr. President, I rise today to recognize the 25th anniversary and great impact of the Nevada Opera Theatre in Las Vegas, NV. A pillar in the arts, education and entertainment in southern Nevada, we are proud of the Nevada Theatre Opera and its many achievements since inception. It is my great pleasure to honor this fine institution along with its participants, patrons and volunteers here before the U.S. Senate today.

Known as a global center of entertainment and the arts, Las Vegas, NV, enjoys an incredible atmosphere of music and theatre. Eileen Hayes desired to add the immense impact of opera to this reputation and realized her goal with the foundation of the Nevada Opera Theatre in October of 1985. She brought opera music and performance to southern Nevada. Her work has been instrumental, and since the first performance in August of 1986, audiences have been captivated by productions including: La Boheme, La Traviata, Tosca and Die Fledermaus, to name a few.

The theatre continues on today as the major nonprofit opera company in southern Nevada. Comprised of Nevada Opera Theatre artists, chorus, and children's chorus and orchestra, membership surpasses 120. Many of the included artists are nationally and internationally recognized, while others are talented regional and local performers. All artists exude an excellent caliber or professionalism in the development of their craft.

As I have previously mentioned, these citizen performers not only entertain. Opera Outreach has performed for over 115,000 Clark County School District and private students, touching a great many lives in the ongoing education of our youth. Everyone is invited to participate by either joining the theatre or becoming a patron, making the education all the more tangible. Outreach encompasses not only programs in the schools but additional programming in local malls, hospices, hospitals, and for civic and community organizations.

I join with my fellow Nevadans in honoring the Nevada Opera Theatre for its 25 years of service. Now well into its third decade, this institution has worked to bring a knowledge and appreciation of music to the people of southern Nevada, and I have no doubt that it will continue to do so for years to come. I am grateful and honored to recognize the 25th anniversary of the Nevada Opera Theatre.