

end of 2010 the Recovery Act raised the real inflation-adjusted gross domestic product by as much as 3.5 percent and increased the number of employed Americans by as many as 3.3 million. But today the shot in the arm provided by the Recovery Act is winding down.

Quite frankly, we did not put enough in the Recovery Act to stretch it out for a longer period of time. The economy is still struggling. Our Democratic majority in this body has brought to the floor a series of job-creating bills, but Republicans have filibustered and killed every single one.

So I repeat. Yes, we face a large budget deficit. Yes, we have to address it in the intermediate and long term. In the immediate term we need to confront the jobs deficit. But we also face a deficit of a positive vision—a positive vision. We have failed to meet the challenges of our day with the boldness and the vision that our predecessors summoned in times past.

How much time do I have remaining?

The ACTING PRESIDENT pro tempore. Ten minutes remains for the Democratic side collectively.

Mr. HARKIN. I will just take about 3 more minutes.

Many Republicans are demanding that we permanently hobble the Federal Government, just as our predecessors did not want to build the roads and the highways and the canals in the past.

My friend from Utah had a chart that said “broke or balanced.” They claim our Nation is poor and broke. That is not true. That is not true. That negative, defeatist viewpoint is dead wrong. We remain the wealthiest Nation on Earth, with the highest per capita income of any major country on the face of the globe. But we have to act decisively, with the power of the Federal Government to boost the economy, foster innovation, and create good middle-class jobs. That is the most important thing.

Lastly, balanced budget? Let’s just do what we did under the Clinton years, in which we had 4 years of balanced budgets and left the biggest surplus in our Nation’s history. But the Republicans will not do that because they have a defeatist attitude. We need a more bold vision than what the Republicans bring forward to the American people.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent to speak for 10 minutes.

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

#### COMBATING MILITARY COUNTERFEITS

Mr. WHITEHOUSE. Madam President, our Nation asks a lot of our troops. In return, we must give them the best possible equipment to fulfill their vital missions and come home

safely. We have a powerful obligation to them to ensure the proper performance of weapons systems, body armor, aircraft parts, and countless other mission-critical products.

Today, however, America’s military faces a significant and growing threat from counterfeit products entering the military supply chain.

I rise to speak about a bill I have introduced with Senator MCCAIN, Senator GRAHAM, and Senator COONS: the Combating Military Counterfeits Act of 2011. This bill will enhance the ability of prosecutors to keep counterfeit goods out of the military supply chain. In so doing it will help protect America’s Armed Forces from the risk of defective equipment.

These counterfeit products do not meet military standards. As a result, they put troops’ lives at risk, compromise military readiness, and cost the country enormous sums in replacement costs.

In the case of microelectronics, counterfeit parts also provide an avenue for cybersecurity threats to infiltrate military systems, possibly enabling hackers to track or even disable crucial national security applications.

With troops from Rhode Island and all over the United States serving overseas in Iraq and Afghanistan, we cannot accept criminals selling fake versions of products used by our troops. Unfortunately, however, this unacceptable threat to troop safety and national security is growing.

A report by the Government Accountability Office provides examples that demand stiff criminal punishment. It explains that the Defense Department found out in testing that what it thought was Kevlar body armor was in fact nothing of the sort and could not protect our troops the way proper Kevlar can. Our troops going out on patrol in fake body armor is simply unacceptable.

In another example, a supplier sold the Defense Department a part that it falsely claimed was a \$7,000 circuit that met the specifications of a missile guidance system. Military grade chips are called that for a reason: they are required to withstand extreme temperature, force, and vibration. Chips that don’t meet those specifications are prone to fail; for example, when a jet is at high altitude, when a missile is launching, or when a GPS unit is out in the rugged field. The possible consequences of such equipment failing are dire.

A January 2010 study by the Commerce Department quoted a Defense Department official as estimating that counterfeit aircraft parts were “leading to a 5 to 15 percent annual decrease in weapons system reliability.”

The Commerce Department study, which surveyed military manufacturers, contractors, and distributors, reported approximately 2½ times as many incidents of counterfeit electronics in 2008 as in 2005. The high price of military grade products is going to attract more and more counterfeiters.

On a related matter, one source of the problem has been the often illegal dumping of U.S. electronic waste in countries such as China. Business Week reported in 2010 that used computer chips from old personal computers are fraudulently remarked in China as “military grade” chips and sold to U.S. military suppliers. A bill I introduced last week, the Responsible Electronics Recycling Act, would help address that issue by cracking down on the profitable dumping of electronic waste.

We should also evaluate this combating military counterfeits bill in the context of the relentless cyber attacks America weathers every day. The chip might not only be counterfeit, it might be the carrier for dangerous viruses and malware that may create windows our enemies can enter to sabotage our military equipment or to steal our military secrets.

I applaud those of my colleagues who have worked with the Department of Defense to ensure that it can keep counterfeits out of the supply chain.

I particularly appreciate the leadership of Chairman CARL LEVIN and Ranking Member JOHN MCCAIN of the Armed Services Committee. I am also pleased that the administration, and particularly its intellectual property enforcement coordinator, Victoria Espinel, is working hard to protect our military from counterfeits. I am also pleased that the National Intellectual Property Rights Coordination Center recently began Operation Chain Reaction, a new initiative targeting counterfeit items entering the military supply chain.

I strongly believe that strengthened criminal provisions should be part of our strategy going forward. As a former U.S. attorney I know the significant deterrent effect criminal sanctions can provide.

The Department of Justice has a vital role to play in using criminal investigations and prosecutions to identify and deter trafficking in counterfeit military goods.

To that end, the administration has endorsed increasing penalties for trafficking in counterfeit military goods as part of recent recommendations to Congress for better protecting American intellectual property. I am glad the administration has recognized the need for legislation, and I look forward to working with them to see the necessary changes made.

Our laws currently do not impose any special punishment for trafficking in counterfeit military goods. 18 U.S.C. section 2320, the counterfeit trafficking statute, provides heightened penalties for trafficking and counterfeits that result in bodily injury or death. But out on the battlefield it is not clear that the part will ever be recovered, and it is impossible sometimes to tell them the counterfeit caused the bodily injury or death.

As a result, traffickers in military counterfeits are less likely to face penalties that reflect the unacceptable

risk their counterfeits impose on our soldiers, our military readiness, our cybersecurity, and our national security.

The legislation I am introducing today with Senators MCCAIN, GRAHAM, and COONS addresses this inadequacy in our laws. I urge my colleagues to join me in seeing it passed into law soon. Traffickers should pay a heavy price if they knowingly sell the military a piece of counterfeit body armor that could fail in combat, a counterfeit missile control system that could short-circuit at launch, or a counterfeit GPS that could fail on the battlefield. Our troops deserve Kevlar that is Kevlar, and military grade chips that are military grade.

By creating an enhanced offense for an individual who traffics in counterfeits and knows that the counterfeit product either is intended for military use or is identified as meeting military standards, this bill will help. It doubles the statutory maximum penalty for such offenses, and it directs the sentencing commission to update the sentencing guidelines as appropriate to reflect Congress's intent that trafficking in counterfeit military items be punished sufficiently to deter this wrongful endangerment of our servicemembers.

The bill targets only particularly malicious offenders—those who already are guilty of trafficking in counterfeit goods and know they are selling military counterfeits.

This approach means the bill will not affect legitimate military contractors who might be unaware that a counterfeit chip has been entered into one of their products. It will not apply to makers of products that unintentionally fall short of military specifications. This bill is intended to help military suppliers by deterring the criminals who sell counterfeits to them or to their subcontractors. Manufacturers, such as the many high-tech innovators in Rhode Island, will actually benefit from the protection of their intellectual property.

I am grateful to have the support of the Chamber of Commerce, the Semiconductor Industry Association, the International Anti-Counterfeiting Coalition, and others. I look forward to working with them and other interested stakeholders to make this legislation as effective as possible at deterring this particularly reprehensible form of criminal activity.

Let me close by thanking Senator GRAHAM, Senator MCCAIN, and Senator COONS for joining me in introducing this bill today. As my colleagues know, Senator MCCAIN and Senator GRAHAM both have long stood out as champions for our troops. Senator COONS has already become a staunch defender of our national security and our Nation's intellectual property.

I very much look forward to working with them and other colleagues on this important bill.

All of us in the Senate have the privilege of visiting with and supporting our

troops. We all know the sacrifices they make for our country. We all want to do everything we can to ensure that their equipment functions properly and that counterfeits do not compromise our Nation's military readiness or security. Passing the Combating Military Counterfeits Act of 2011 will be a valuable step toward these important goals.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### PRESIDENTIAL APPOINTMENT EFFICIENCY AND STREAMLINING ACT OF 2011

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 679, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 679) to reduce the number of executive positions subject to Senate confirmation.

Pending:

DeMint amendment No. 501, to repeal the authority to provide certain loans to the International Monetary Fund, the increase in the United States quota to the Fund, and certain other related authorities, and rescind related appropriated amounts.

Portman modified amendment No. 509, to strike the provisions relating to the Assistant Secretary (Comptroller) of the Navy, the Assistant Secretary (Comptroller) of the Army, and the Assistant Secretary (Comptroller) of the Air Force, the chief financial officer positions, and the Controller of the Office of Management and Budget.

DeMint amendment No. 511, to enhance accountability and transparency among various Executive agencies.

Toomey/Vitter amendment No. 514, to strike the provision relating to the Governors and alternate governors of the International Monetary Fund and the International Bank for Reconstruction and Development.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Madam President, I ask unanimous consent that notwithstanding the previous order for the votes to begin at 11 a.m., there now be 10 minutes equally divided between the two leaders or their designees prior to the votes; further, that there be 2 minutes equally divided between the votes; finally, that all rollcall votes after the first vote be 10-minute votes.

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

Mr. SCHUMER. Madam President, I will take the 5 minutes on our side.

Madam President, I rise and join my colleagues in strong support of the nominations reform package before us today. This bipartisan bill and resolution which we will vote on a bit later will effectively change the way the Senate does business, and it is long past time to do just that. It is not often that this body voluntarily takes steps to curb its own power. But for the good of our democracy, the Senate must become more efficient.

I thank my good friend and colleague, Senator LAMAR ALEXANDER, who has been a driving force behind this effort and has been steadfast in his resolve to make a change to this body. We have worked in a bipartisan way to resolve all the differences in a way that I would hope the Senate could work more often on more pieces of legislation.

I also thank the chair and ranking members of the Homeland Security Committee, Senators LIEBERMAN and COLLINS, for their input and expertise in drafting this piece of legislation and moving it quickly and productively through committee. Their impact on this process cannot be understated.

I thank Senator REID, the majority leader, and the Republican leader, Senator MCCONNELL. Back in January, when we were negotiating the reforms to the body, they set up our working group to look into the problem of executive nominations, and they supported and were an active part of our effort.

The Senate has always been known as a cooling saucer, but as of late it has become a subzero freezer. Nominees of impeccable qualifications and indisputable support have been frozen out of the confirmation process, and the backup in nominations also gridlocks other important legislative business. That is why the Senate, often known as the cooling saucer, is too often now a subzero freezer.

Today, we will be taking a meaningful and important step toward changing this. The rapid growth of the executive branch has put unanticipated burdens on the Senate, whose job it is to confirm the President's appointees. There is nothing wrong with the Senate doing a little prioritizing of its pending business.

Today, about one-third of the current Senate confirmable positions will now either not require confirmation at all or will enjoy a streamlined confirmation. By now we all know what S. 679 and S. Res. 116 do, but what will their impact be?

In short, this package of reform will help our government function better. One example of this is the working group that the bill creates to examine a "smart form" to streamline the paperwork submitted by a nominee. A nominee may now, today, have to complete three separate financial disclosure forms for the executive and legislative branches. Hopefully, the idea of not having to fill out mountains of paperwork will be appealing to prospective government servants.

Additionally, this bill and resolution we are voting on will help the Senate focus more like a laser beam on issues affecting the average American, such as jobs. The less time committees have to spend on nominees, the more time they can spend on improving the everyday life of Americans.

Over the last several decades we have seen an amazing increase in the nominees we have had to confirm. It has gotten out of hand, and that is something on which both sides can agree.