

Let me talk about the first issue, creating jobs. President Obama came forward with a job initiative that I do believe is entitled to debate on the floor of this body and, I would hope, passage. President Obama brought forward a bill that deals with rebuilding America so we can have the types of roads and bridges and water infrastructure and energy infrastructure that allow America to compete, at the same time creating jobs.

He has offered proposals that would help small businesses, because we know the small businesses represent the economic engine of America. Where more jobs will be created, more innovation occurs. He understands that and is encouraging us to do more to help small businesses.

The President's proposal deals with our men and women in the military service who are coming back from Iraq, coming back from Afghanistan, to have jobs available. Yesterday I was at BWI Airport as our soldiers came back from Iraq and Afghanistan. They want jobs. The President's initiative says, look, let's make sure we have jobs for our returning soldiers. All that means is we are going to create more jobs.

The joint committee needs to make sure that in its recommendations we have the wherewithal to move this Nation forward by creating jobs. The President's proposal has been evaluated by independent economists. Mark Zandi, who was Senator McCain's economic adviser in his Presidential campaign, points out the President's proposal would increase our gross domestic product by 2 percent and create 1.9 million additional jobs.

The President's proposal is completely paid for. It adds nothing to the deficit. I must tell you, if we are going to be able to balance our budget, if we are going to be able to get our budget in better shape, we have to have more jobs, less people using governmental services, more people paying revenues or taxes into our system. The more people who are working, the better our budgets will come into balance.

I know some here are saying there is a better way of doing it. Well, come forward with a better way of doing it. I would challenge particularly my Republican colleagues, if you have a better way, come forward with a proposal that includes at least 1.9 million jobs and does it without adding to the budget deficit. That is the proposal we have before us.

I am asking the joint committee to make sure they provide in their recommendations a way that we can create jobs so we can deal with our budget deficit.

The second point I want to make is I would hope that the joint committee's recommendations would be comprehensive and balanced. Some call that the shared sacrifice.

I know these numbers can sort of be used any way you want, but the groups that have looked at this, the Simpson-Bowles group and others, say, we need

to reduce the deficit over the next 10 years by about \$4 trillion. I think that is a number we should meet. I hope the joint committee can come in with \$4 trillion of deficit reduction over the next 10 years. We have already done the first trillion. We did that when we raised the debt limit in August. Now we need to look at another \$3 trillion. I would hope they would do it.

It starts with a realistic baseline. What does that mean? It means what numbers are we using in order to determine whether we actually get to that \$4 trillion of deficit reduction? What baseline do we use in order to determine the revenue base from which we start these discussions?

I would suggest we make a realistic baseline. I was impressed with the work of the Simpson-Bowles commission. I was impressed by the work of our colleagues in the Senate, the so-called Gang of Six, and I must tell you the overwhelming majority of my colleagues in the Senate have at least agreed to the basis of what the Gang of Six was working with, what they were trying to do. It uses a realistic baseline. It assumes that some of the tax provisions will be extended, but not all.

It also assumes we have to bring in additional revenues beyond that. Quite frankly, the number we have been talking about is that we need about \$1.2 trillion outside of this \$4 trillion package in realistic revenues using a realistic baseline. And that can be gotten. That is not so difficult to get when you realize that all of the tax deductions, exemptions, and credits equal as much revenue as we bring in in our Tax Code.

Another way to say that is, if we eliminate all of the exemptions, deductions, and credits, we get tax rates one-half of what our current tax rates are. What we are suggesting is that there are certain loopholes in the Tax Code that benefit special interest corporations. They need to be eliminated. They need to be eliminated. Everyone has to pay their fair share. We cannot just attack the middle-class families.

There was an article in the Baltimore Sun this past week which showed that during this recession the number of people earning more than \$1 million has grown dramatically. There have been economic studies done showing that the wealthiest in America during these economic times have done very well. Their incomes have grown at a faster rate than other Americans, the middle-class families. The middle-class families are falling behind.

All we are suggesting is that when we look at how we get the revenue, let's make sure it is fair and we do not again penalize the middle-class families. Let's make sure those who earn over \$1 million pay their fair share toward this comprehensive and balanced approach.

That is what we are asking the joint committee to come in with, come in with proposals that are fair, are balanced, make sure everybody pays their fair share, including those who have

done extremely well during this economic recession, those who have made over \$1 million of income.

I must tell you, everyone needs to be part of the equation. We understand that. We have to have the so-called shared sacrifice. I have taken the floor before to talk about our Federal employees. Everybody says, well, you know, the Federal employees have to help contribute to this deficit also. Our Federal employees already understand that. They already have contributed. They were the first to do that with 2 years of pay freezes. We are asking them to do more with less people. We have cut their budgets and we have given them more work. And we have told them, 2 years with a pay freeze. So our Federal employees have already contributed to these deficit reduction numbers. They should not be picked on again. I believe we can come together. We need to have a comprehensive and balanced approach that allows America to create more jobs. That is what we need to do as a nation. If we come together, I am convinced it will instill confidence among the American consumers, among American investors, and our economy will take off. It is going to be good for everyone in this Nation. I hope this month we will see the joint committee come in with such recommendations that will be balanced, will be fair, and will allow us to create more jobs for Americans.

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

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

#### CRIMINAL JUSTICE REFORM

Mr. WEBB. Mr. President, 11 days ago, all but four of the Republicans in this body filibustered a commonsense piece of legislation that would have created a national commission designed to bring together some of the best minds in America to examine our broken and frequently dysfunctional criminal justice system and to make recommendations as to how we can make it more effective, more fair, and more cost-efficient.

This legislation was the product of more than 4 years of effort. It was paid for. It would have gone out of business after 18 months. It was balanced philosophically. It guaranteed equal representation among Democrats and Republicans in its membership. It was endorsed by 70 organizations from across the country and from across the philosophical spectrum—from the National Sheriffs' Association, the Fraternal Order of Police, the International Association of Chiefs of Police, to the ACLU, the U.S. Conference of Mayors, and the Sentencing Project.

I must say that at first I was stunned by this filibuster at the hands of 43 Republicans. But on the other hand, it is impossible not to notice over the past 2 years the lamentable decline in bipartisan behavior in this body, even in addressing serious issues of actual governance. I say this with a great deal of regret, both personally and politically.

I think I can fairly say there is no one in this Chamber who has tried harder to work across party lines. In fact, one of my Republican friends joked not long ago that I was the only “nonpolitical” Member of the Senate. I spent 4 years in the Reagan administration as an Assistant Secretary of Defense and Secretary of the Navy. I am proud of that. I consciously sought out Senators John Warner and Chuck Hagel as two of my three principal cosponsors when I introduced the post-9/11 GI bill.

I voted with the Republicans 17 times during the health care debate. I was the only Member of Congress in either party or in either House to send a letter to President Obama, when he claimed he would come back from the climate change summit in Copenhagen with a politically binding agreement, stating my belief the President did not have the constitutional authority to bind the American people to an international agreement without the approval of the Congress. I have taken issue with this administration with respect to closing down our facilities at Guantanamo. I have consistently opposed any tax increases on ordinary earned income.

I took that same bipartisan approach when I introduced the criminal justice commission bill in 2009, obtaining the cosponsorship of a number of Republicans, including Senators LINDSEY GRAHAM and ORRIN HATCH, both of whom serve on the Judiciary Committee. The filibuster of a common-sense measure that might assist this Nation in resolving the national disgrace that now comprises our criminal justice system is a sad metaphor for the obstructionism that is too frequently replacing commonsense leadership in our national debate.

We spent more than 4 years reaching out to all sides of the philosophical spectrum. We worked with liberals, we worked with conservatives, we worked with law enforcement, we sought the views of many Republicans, and we also worked in close coordination with the other body. Toward that end, it is interesting to note that in the last Congress, the House of Representatives approved the same legislation by a voice vote. It was not even considered controversial. In fact, Congressman LAMAR SMITH, a Republican, now the chairman of the House Judiciary Committee, was a cosponsor of the legislation.

But let us speak frankly. In the aftermath of the 2010 elections and in anticipation of the 2012 Presidential election, the mood in this historic body has frequently become nothing short of

toxic. In that environment, even this carefully developed and much needed legislation is suddenly considered controversial and not only controversial, it was also alleged to be unconstitutional.

Just before the vote, Senator COBURN of Oklahoma said: “We’re absolutely ignoring the U.S. Constitution if you do this.”

Senator HUTCHISON from Texas said: “This is the most massive encroachment on States rights I have seen in this body.”

With all due respect, I am pretty comfortable with the legal education I received at Georgetown University Law Center. I care about the Constitution. I keep a copy of the Constitution on my desk, and I refer to it frequently. I think I have a pretty good idea of what is in it and what is not and there is nothing in the Constitution that precludes the Congress from asking some of the best minds in America to come together and to give us advice and recommendations on the entire gamut of challenges that face our criminal justice system. Certain Senators may not like that idea. That is their prerogative. They may not even want to hear the advice. They may not even want to believe there is a problem in our criminal justice system. But to claim the Constitution precludes this process is nothing short of absurd.

In fact, our national leadership has received such advice before, most notably in 1965, during the Johnson administration, which is the last time we have had a comprehensive examination of our criminal justice system.

I am not alone in this judgment. Over the past 11 days, there have been a number of editorials and articles pointing out the unfortunate nature of this filibuster: Sunday, masthead editorial, New York Times; Sunday, masthead editorial, Washington Post; a very observant article in the Politico the day of the vote; editorial, Newsday. The lead editorial in the Virginian-Pilot in my home State reads: “Senate Negligence on Crime Reform.” Very interestingly, an article in the National Review—one of the most conservative magazines in the United States—is titled: “An Absolute Scandal.” The first sentence of that article reads: “The insane refusal of 43 Senate Republicans to back the National Criminal Justice Act.”

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks all these articles I have referred to.

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

(See exhibit 1.)

Mr. WEBB. Mr. President, for nearly 2 years, our legislative process has too often become sidetracked by what can only be termed an “indiscriminate obstructionism.” A lot of good ideas have fallen by the wayside, having become hostages in the larger debate about who should comprise our national leadership and how we should solve long-

term problems, such as our fiscal crisis. This larger debate has affected the willingness of many in the other party to come together and address a number of serious issues of governance that should be resolved no matter who is President and no matter how we end up addressing the economy. I would ask my friends on the other side of the aisle to think hard about the overwhelming frustration across our country with the persistent failure of the Congress to address these kinds of issues.

Nowhere is the need to think creatively for the good of the country more clear than where it affects our dysfunctional criminal justice system, the challenges of which threaten the safety and the well-being of every single community and every single American. This system will not be fixed by sticking our heads in the sand and pretending not to see its failings. It will only be fixed by bringing together the good minds of those who have dedicated years of thought and action to finding answers. That is what we have been trying to do. Unfortunately, that is what we were stopped from doing by this filibuster.

People in this country are looking for leadership, and obstructionism is not leadership. We will continue to pursue this effort, and I would ask my Republican colleagues to join the unanimous position of the Democratic Party as we do.

#### EXHIBIT 1

[From The New York Times, Oct. 30, 2011]

#### EDITORIAL: FALLING CRIME, TEEMING PRISONS

Senator Jim Webb, Democrat of Virginia, has a smart proposal to create a bipartisan commission to review the nation’s troubled criminal justice system and offer recommendations for reform. The National Criminal Justice Commission Act would be a valuable first step toward reducing crime as well as punishment. Unfortunately, Senate Republicans derailed the bill recently, with some falsely claiming that it would encroach on state’s rights.

As a means of controlling crime, America’s prisons are notoriously inefficient and only minimally effective, often creating hardened criminals out of first-time offenders. The United States has 5 percent of the world’s population, yet 25 percent of the world’s prisoners. In the past generation, the imprisonment rate per capita in this country has multiplied by five. There are 2.3 million Americans in prisons and jails. Spending on prisons has reached \$77 billion a year.

While crime has gone down notably, just 10 to 25 percent of the decline can be credited to the increase in imprisonment. The rest is from the waning of the crack epidemic, the aging of the baby boomers and other factors.

Even as the prison population has grown, less than half of the inmates are serving time for violent crimes. Far too often, prison has become a warehouse for people with drug or alcohol addiction. More than half of the population has some form of mental illness. Without proper addiction and psychiatric treatment, many end up back in prison soon after their release.

The incarceration rate has had a devastating effect on minority communities. African-Americans, who make up one-eighth of the population, now make up about 40 percent of those in prison. African-American

men have a one-in-three chance of spending a year or more in prison. The trend affects whole communities, depressing earnings and increasing recidivism.

There are, however, ways to end this cycle of incarceration. This could be done by reducing sentences for nonviolent offenses, ending mandatory minimum sentences and cleaning up drug markets nationally. Reasonable senators should support the bipartisan commission that Senator Webb is calling for, which would cost only \$5 million and could help bring about compelling reforms.

[From The Washington Post, Oct. 30, 2011]

EDITORIAL: SHAKY ARGUMENTS BLOCK  
FEDERAL COMMISSION ON CRIME

The United States remains the world's leading jailer, with more than 2 million individuals locked up. The annual price tag is \$50 billion.

Who are the individuals behind bars? What crimes were they convicted of and what penalties did they receive? What relationship is there between the rate of incarceration and the drop in violent crime? Are there more effective and inexpensive ways to deal with lawbreakers?

These and other questions would be tackled by a bipartisan commission proposed by Sen. James Webb (D-Va.). Republican and Democratic leaders would pick the 14 members of the National Criminal Justice Commission, including experts on law enforcement, prison administration, mental health and drug abuse. The commission, supported by the Fraternal Order of Police and the International Association of Police Chiefs, would have a budget of \$5 million and would issue a report after 18 months. This approach is long overdue: The last comprehensive review of criminal justice was conducted roughly 45 years ago during the Johnson administration.

Yet Mr. Webb's efforts were dealt a blow last week when Republicans in the Senate blocked consideration of the measure.

Sen. Kay Bailey Hutchison (R-Tex.) criticized the proposal for stomping on states' rights. Sen. Tom Coburn (R-Okla.) deemed it unconstitutional. The National District Attorneys Association, which opposes the measure, wrote that the "federal government should never be in the business of auditing state and local criminal justice systems."

These criticisms fall flat. The panel would only study the policies of local, state and national law enforcement entities and make recommendations about best practices. It would have no power to issue mandates. The federal government, which distributes federal dollars as incentives for states and localities to adopt best practices, has a legitimate need to know which policies work.

Some critics question whether a commission appointed by politicians will issue fair recommendations; a nonpartisan academic group may be better-suited for the task. Critics also worry that 18 months—the length of time the Johnson commission was up and running—is not enough time. These are points that should be addressed, but they are not valid arguments against conducting a review.

[From Politico, Oct. 20, 2011]

REPUBLICANS BLOCK JUSTICE REVIEW  
PROPOSAL IN SENATE  
(By David Rogers)

Invoking "states rights" and the Constitution, Senate Republicans Thursday torpedoed an ambitious plan to create a national blue ribbon bipartisan commission to do a top-to-bottom review of the U.S. criminal justice system and report back potential reforms in 18 months.

The 57-43 roll call—three short of the 60 supermajority needed—dramatized again how politically divided the chamber has become.

Almost identical legislation cleared the House in the last Congress on a simple voice vote with Republican backing and had been approved with bipartisan support in the Senate Judiciary Committee last year as well.

Given endorsements from the American Bar Association and many police and sheriffs organizations, proponents had hoped to clear the 60 vote supermajority required in the Senate. But under a barrage of last-minute attacks, Republican support wilted. And the chief sponsor, Sen. Jim Webb (D-Va.), found himself deserted by even his long time associate and fellow Vietnam veteran, Sen. John McCain (R-Ariz.).

"We're not done," Webb told Politico. "There were very specific answers to everything that was raised there. There is no states rights issue in convening the best minds in America to give you advice and observations about the overall criminal justice system."

"I thought he was voting with us," Webb said of McCain. The Arizona Republican argued in a separate hallway interview that the state-rights complaint was valid and also took issue with how the 14-member commission, seven Republicans and seven Democrats, would be chosen.

Indeed, Republicans argued that the White House would have too much influence, effectively creating a 9-7 majority for the administration. But Webb said the specific language that one set of commission seats be chosen "in agreement" with the White House had been the exact phrasing chosen by the GOP. And Republicans are specifically promised control over one of the two co-chairs.

Sen. Kay Bailey Hutchison (R-Texas) took the lead in the GOP's attacks, describing the commission as "an overreach of gigantic proportions" and "not a priority in these tight budget times."

"We're absolutely ignoring the U.S. Constitution if you do this," said Sen. Tom Coburn (R-Okla.) in closing. "We have no role unless we're violating human rights or the U.S. Constitution to involve ourselves in the criminal court system or penal system in my state or any other state . . . I would urge a no vote against this and honor our Constitution."

The scene was in sharp contrast with events before the 2010 mid-term elections.

In July that same year, nearly identical legislation sailed through the House with the backing of Hutchison's fellow Texan, Rep. Lamar Smith—now chairman of the House Judiciary Committee. Support was so strong that the bill was called up under expedited proceedings and passed without any member even demanding a recorded vote.

By contrast, just four Senate Republicans backed Webb Thursday: Sens. Lindsey Graham of South Carolina, Orrin Hatch of Utah, Olympia Snowe of Maine and Scott Brown of Massachusetts.

Hatch is a former Senate Judiciary Committee chairman. And Graham, a close friend of McCain, is prominent as well on the committee which reported a similar version of the bill in January last year—also before the 2010 elections.

Individual Republican senators said they had come under pressure from local district attorneys and judges in drug courts to oppose Webb. But the Democrat countered that he had strong support from the drug court judiciary and the model for his proposal was the influential presidential commission on crime and the judicial system in the mid 1960's led by then-Attorney General Nicholas Katzenbach.

Webb said that 40 years later it is reasonable to have a second review, especially

given the high incarceration rate in the U.S. at a time of relatively low crime rates.

"Our criminal justice system is broken in many areas," he told the Senate in his own floor comments. "We need a national commission to look at the criminal justice system from point of apprehension through re-entry into society of people who have been incarcerated."

[From Newsday, Oct. 24, 2011]

KEELER: JUSTICE SYSTEM NEEDS TO BE  
STUDIED

(By Bob Keeler)

If we're ever going to get a handle on why we lock up so many Americans and find out if we're paying too much for too little benefit, this is the time. The cut-the-deficit chorus in Washington seems to have made even the law-and-order hawks have second thoughts about prison costs.

But last week, a perfectly sensible proposal for a broad examination of the nation's criminal justice system died in the Senate. Sponsored by Sen. Jim Webb (D-Va.), it would have done nothing more radical than create a blue-ribbon commission to spend 18 months looking into the system, then recommend reforms. The United States has a far higher per capita rate of prisoners than the world average. If we're locking up people for too long, or for the wrong reasons, and if we can save billions of dollars without increasing crime, it's an idea whose time has come.

In fact, Webb's bill enjoys broad support among law enforcement groups, such as the International Association of Chiefs of Police and the National Sheriffs' Association. In 2010, the House of Representatives passed it. And last week, Webb tried to get it adopted in the Senate as an amendment to an appropriations measure.

It got 57 votes, including four Republicans—not enough to get past the 60-vote filibuster barrier. The 43 nay votes all came from Republicans. And Webb was mightily miffed.

"Their inflammatory arguments defy reasonable explanation and were contradicted by the plain language of our legislation," Webb said in a statement after the vote. "To suggest, for example, that the nonbinding recommendations of a bipartisan commission threaten the Constitution is absurd."

Webb's strong words should come as no surprise. He's a fighter, like the Scots-Irish forebears he celebrated in a book called "Born Fighting: How the Scots-Irish Shaped America."

He's a graduate of the U.S. Naval Academy and a Marine Corps veteran of Vietnam, where he earned the Navy Cross, the Silver Star, two Bronze Stars and two Purple Hearts. Later, he served as Navy secretary under President Ronald Reagan. He's a prolific author, including a novel of Vietnam, "Fields of Fire."

So Webb is tough—not the soft liberal often associated with prison reform. His passion for it goes back decades. In the military, he served on courts-martial. Later, as an attorney, he defended pro bono a young ex-Marine convicted of murder in Vietnam. In 1984, for Parade Magazine, he went to Japan to write about its justice system. "Since then," he wrote in 2009 in Parade, "Japan's prison population has not quite doubled to 71,000, while ours has quadrupled to 2.3 million. The United States has by far the world's highest incarceration rate. With 5% of the world's population, our country now houses nearly 25% of the world's reported prisoners."

He argues that we're locking up people who don't have to be in prison—like nonviolent drug offenders—but not doing enough to protect the public from violent gangs and drug cartels.

Over the years, I've spent a lot of time in prison, as a reporter—starting with the Attica uprising in 1971 and including a prison guard strike in 1979—and as a visitor. I've interviewed inmates who make me glad there are stout bars and high walls between them and society. And I've known sad-sacks, whose incarceration protects no one and helps no one.

Crime is a long-term problem, but short-term legislators try to solve it with fixes that don't work, but do add unnecessarily to the prison population. Now it's time to undo some of the damage they've done.

Webb isn't running for re-election in 2012. That gives him 14-plus months to get this bill through the Senate. I'm betting he keeps fighting, as he should.

[From The Virginia-Pilot, Oct. 22, 2011]

#### EDITORIAL: SENATE NEGLIGENCE ON CRIME REFORM

To get an idea of how disconnected from reality, and how utterly dysfunctional, Congress has become, look no further than the fate this week of Sen. Jim Webb's proposal for a blue-ribbon commission to examine the nation's criminal justice system.

The proposal had bipartisan support among legislators and special-interest groups ranging from the American Civil Liberties Union to the Fraternal Order of Police.

It promised to have two co-chairs—one Republican, one Democrat—and a 14-member panel evenly represented by both parties.

It restricted itself to completing its task—a top-to-bottom review of strengths and weaknesses in the federal, state and local criminal justice systems, with an aim to identify ways to become fairer, more efficient and more cost-effective—within just 18 months.

And it was designed to carry out all of its work—convening hearings, calling experts, analyzing data, issuing reports—on a budget of \$5 million.

Last year, the legislation rolled through the House with virtually no opposition. But this week, Webb's proposal was shelved after a few Republicans dropped their support.

Excuses varied, but Texas Sen. Kay Bailey Hutchison managed to articulate her opposition in a way that underscored the kind of myopia that has rendered Congress, and particularly the Senate, a counterproductive force in American government.

She described the legislation, according to Politico, as “not a priority in these tight budget times,” a tenuous claim if there ever were one. Even in tough times, spending what amounts to less than a drop in the bucket (the Department of Justice alone spends more than \$28 billion) as a means to save far more should be viewed as a financially and morally prudent move.

Oklahoma Sen. Tom Coburn offered his own reason: Such a commission would violate states' rights and the Constitution. The claim is nonsense, given that the commission's intent is to offer recommendations, not binding directives.

But those spurious arguments were sufficient to sway enough Republican senators to disown the notion of improving a system that, as Webb has repeatedly noted, puts four times as many mentally ill Americans into prisons as into mental health institutions.

The system accounts for 25 percent of the world's prison population, even though the United States is home to just 5 percent of the people. It has funneled more than \$1 trillion into a war on drugs that has ruined countless lives, resulted in thousands of deaths and sent inmate populations soaring.

Perhaps the most revealing commentary on Webb's proposal—and on the nation's criminal justice system and America's readiness to change it—was delivered this week.

It originated far from the halls of Congress. It came in the form of a poll, conducted by Gallup, that showed that for the first time in modern U.S. history, half of Americans favored the legalization of marijuana, a drug that has created millions of criminals in America and cost untold billions of dollars.

[From National Review Online, Oct. 21, 2011]

#### AN ABSOLUTE SCANDAL (By Reihan Salam)

The insane refusal of 43 Senate Republicans to back the National Criminal Justice Commission Act. Even Sen. Tom Coburn of Oklahoma, easily one of my favorite legislators, covered himself in non-glory on this one by suggesting that the commission might be unconstitutional, despite the fact that all it established was a bipartisan panel empowered to make nonbinding recommendations.

There were, however, four Senate Republicans who backed the proposal: Sens. Lindsey Graham of South Carolina, Orrin G. Hatch of Utah, Olympia Snowe of Maine and Scott Brown of Massachusetts.

Why do we need a commission? Senator Webb, the sponsor of the proposal, offered a fact sheet recounting the scale of the problem:

The United States has by far the world's highest incarceration rate. With five per cent of the world's population, our country now houses twenty-five percent of the world's reported prisoners. More than 2.3 million Americans are now in prison, and another 5million remain on probation or parole.

Our prison population has skyrocketed over the past two decades as we have incarcerated more people for non-violent crimes and acts driven by mental illness or drug dependence.

The costs to our federal, state, and local governments of keeping repeat offenders in the criminal justice system continue to grow during a time of increasingly tight budgets.

Existing practices too often incarcerate people who do not belong in prison, taking resources away from locking up high-risk, violent offenders who are a threat to our communities.

2.3 million + 5 million = 7.3 million. Roughly 24 percent of the 310 million U.S. residents are under the age of 18, leaving us with roughly 235.6 million adults. So that means that 3.1 percent of adults are behind bars, on probation, or on parole right now. There are, of course, millions of ex-offenders.

This population is disproportionately male and disproportionately black, which means that the impact of mass incarceration is particularly significant for African American children. Basically, doing a bid limits your ability to acquire the kind of skills you need to climb the jobs ladder, in part because employers are (understandably) reluctant to hire ex-offenders.

If we're even incarcerating five percent of these individuals needlessly, we're causing a massive amount of damage. Why? Apart from the collateral damage on families and children, we might actually make the crime problem worse. The more we incarcerate people, the less severe the stigma associated with being incarcerated. And reducing the stigma actually reduces the effectiveness of incarceration as a deterrent.

Having grown up in central Brooklyn during the crack epidemic, I have some familiarity with fear of crime. Reducing crime should be an urgent priority, in my view. Even the so-called “great American crime decline” has left us with rates of violent crime radically higher than what we saw in the early 20th century, as William Stuntz observed in his last book:

New York is America's safest large city, the city that saw crime fall the most and the fastest during the 1990s and the early part of this decade. Yet New York's murder rate is 80 percent higher now than it was at the beginning of the twentieth century—notwithstanding an imprisonment rate four times higher now than then. That crime gap is misleadingly small; thanks to advances in emergency medicine, a large fraction of those early twentieth-century homicide victims would survive their wounds today. Taking account of medical advances, New York is probably not twice as violent as a century ago, but several times more violent. At best, the crime drop must be counted a pyrrhic victory.

If locking people up in increasingly large numbers were really the most cost-effective way to keep our cities safe, I'd be all for it. Overwhelming evidence suggests that this is not in fact the case. The people who profit most from today's approach to mass incarceration are not potential crime victims. Rather, they are the workers—most of them unionized public sector workers—who staff our prisons.

So yes: why would we want to study more cost-effective alternatives to reducing crime when we can pour billions of dollars in taxpayer money into the hands of an industry that channels that money back into lobbying and political advertising on behalf of longer prison sentences, all to keep the gravy train going?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

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

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

#### DEPARTMENT OF TRANSPORTATION APPROPRIATIONS

Mr. SANDERS. Mr. President, I want to congratulate the members of the Senate who, by a very large vote today, passed the minibus legislation which, among many other important things, will provide \$1.9 billion for the Department of Transportation's emergency relief fund. What that will do is help the Department deal with the backlog of disaster situations around the country that they previously were not able to deal with; and, from the perspective of the State of Vermont, it will help us deal with the devastation we experienced in terms of our roads and our bridges and our infrastructure as a result of Hurricane Irene.

In many communities around the State, we saw washouts, we saw bridges destroyed or damaged, and roads disappear. While Vermont is certainly prepared to do everything it can to come up with funds to help, there is no question but that the Federal Government needs to be there, as it has always been in the past when disaster strikes a community in America.

The name of our country is the United—U-N-I-T-E-D—States of America. What that means is if a disaster