(i) by striking ''5401 or 5508'' and inserting ''5401, or 5508 or yarn of heading 5402 used as sewing thread,''; and

(ii) by inserting ''or yarn'' after ''only if such sewing thread''.

(H) The chapter rules to chapter 63 are amended by inserting after chapter rule 2 the following:

''Chapter rule 3: Notwithstanding chapter rule 2 to this chapter, a good of this chapter shall be considered originating regardless of the origin of sewing thread or yarn of heading 5402 used as sewing thread described in chapter rule 2 to this chapter, provided the thread or yarn is listed in U.S. note 20 to subchapter XXII of chapter 98 and the good meets all other applicable requirements for preferential tariff treatment under this note.''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection apply to goods of a CAFTA–DR country that are entered, or withdrawn from warehouse for consumption, on or after the date that the Trade Representative determines is the first date on which the equivalent amendments to the rules of origin of the Agreement have entered into force in all CAFTA–DR countries.

(B) PUBLICATION OF DETERMINATION.—The Trade Representative shall promptly publish notice of the determination under subparagraph (A) in the Federal Register.

SEC. 3. EXTENSION OF AND RENEWAL OF IMPORT RESTRICTIONS UNDER BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.

(a) EXTENSION OF BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.—Section 9(b)(3) of the Burmese Freedom and Democracy Act of 2003 (Public Law 108–61; 50 U.S.C. 1701 note) is amended by striking ''nine years'' and inserting ''twelve years''.

(b) RENEWAL OF IMPORT RESTRICTIONS.—

(1) IN GENERAL.—Congress approves the renewal of the import restrictions contained in section 3(a)(1) and section 3A (b)(1) and (c)(1) of the Burmese Freedom and Democracy Act of 2003.

(2) RULE OF CONSTRUCTION.—This section shall be deemed to be a ''renewal resolution'' for purposes of section 9 of the Burmese Freedom and Democracy Act of 2003.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect on the date of the enactment of this Act or July 26, 2012, whichever occurs first.

SEC. 4. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

Notwithstanding section 6655 of the Internal Revenue Code of 1986—

(1) in the case of a corporation with assets of not less than $1,000,000,000 (determined as of the end of the preceding taxable year), the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2017 shall be 100.25 percent of such amount; and

(2) the amount of the next required installment after an installment referred to in paragraph (1) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.

SEC. 5. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking ''August 2, 2021'' and inserting ''October 22, 2021'';

(2) in subparagraph (B)(i), by striking ''December 8, 2020'' and inserting ''October 29, 2021''; and

(3) by striking subparagraphs (C) and (D).

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that at 12:50 p.m. today, the Senate proceed to executive session to consider Calendar No. 651; that there be an hour of debate equally divided in the usual form; that upon the use or yielding back of that time, the Senate proceed to vote with no intervening action or debate on Calendar No. 651, Judge Drain of Michigan, at least a judge-to-be in Michigan.

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

VETERANS JOBS CORPS ACT OF 2012—MOTION TO PROCEED—Continued

Mr. LIEBERMAN. Mr. President, 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.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Ohio.

Mr. BROWN of Ohio. 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. BROWN of Ohio. Madam President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

WALL STREET REFORM

Mr. BROWN of Ohio. Madam President, I rise to discuss the troubling state of our financial system and the unfinished business of Wall Street reform. I am here to talk specifically about too-big-to-fail banks.

Decades of deregulation and laissez faire economic policies helped the six largest U.S. banks grow from 18 percent of gross domestic product only 25 years ago to 68 percent of gross domestic product in 2009. So it went from 18 percent in the mid-1990s to 68 percent of GDP in 2009.

We know what happened next. During the financial crisis, these six megabanks collected $1.2 trillion—just to understand that figure, if we can—$1.2 trillion is $1,200 billion and $1 billion is $1,000 million. The six megabanks collected $1.2 trillion in Federal taxpayer-funded support from the Treasury, from the FDIC, and from the Federal Reserve.

Two years after we passed the Dodd-Frank Wall Street Reform Act—and I supported it because it took many important steps—I am concerned we are not seeing reform, nearly sufficient enough reform, in the financial sector. As we uncover more and more risky, fraudulent, and illegal activities, it seems far too clear that the American people absolutely see this and believe Wall Street is back to business as usual.

Since 2010, we have learned about a number of things. I am just going to rattle off seven or eight significant, serious problems. Some are illegal, some are accusations, some are alleging significant systemic problems—all troubling issues that have happened just in the last couple years: Investor lawsuits and SEC enforcement actions over mortgage-backed securities; municipalities being sold overpriced credit derivatives, bankrupting some of those municipalities, and think of the hardship that causes these communities; the forging of foreclosure documents and mortgage securities legal documents by five of the Nation's largest servicers, leading to $25 billion in penalties—$25 billion in penalties—from these servicers forging foreclosure documents and mortgage security legal documents—$25 billion in penalties; the Nation's largest bank halting all consumer debt collection lawsuits due to concerns about poorly maintained and inaccurate paperwork; the Nation's largest bank losing $5.8 billion so far—so far—on large, complex derivative trades that regulators either missed or didn't understand or ignored; suspicions that 16 global banks, including the three largest U.S. banks, manipulated LIBOR—the London Interbank Overnight Rate—that is used as a benchmark for mortgages, credit cards, student loans, and even for derivatives—financial instruments that affect almost everybody in our country.

Continuing with the list of problems since 2010: a criminal bid-rigging trial exposing illegal practices by many Wall Street banks in arranging bids so banks could underpay for municipal bonds; former employees of the Nation's largest bank alleging the company urged them to steer clients to their own mutual funds because they were more profitable to the bank, even though they paid investors lower returns than other funds, while their clients presumably were trusting them to act in their best interests; the Federal Energy Regulatory Commission investigating whether the biggest U.S. bank manipulated prices in the energy markets, forcing consumers to pay more; a $175 million settlement by the Nation's fourth largest bank for discriminatory lending practices in housing markets that include Cleveland and many other cities. One can walk through these neighborhoods and see what foreclosures have done to them, see what rigging, what other dysfunctional servicers' behavior or illegal activities have done to these communities and to these families.

Putting the numbers aside and the political speech aside, imagine for a moment that a parent of 12- and 13-year-old daughters has to sit down with them and say: Sorry, but dad lost his job a few months ago and now we are losing our home.

Where are we going to move, Mom?

I don't know.

What school am I going to go to?

I don't know yet. We have to figure that out.

Imagine the personal hurt and hardship caused by a lot of these things to a whole lot of families in Cleveland and Mansfield and Cincinnati and Dayton.

More problems since 2010: Regulators are investigating whether the rate that establishes municipal bond prices is susceptible to manipulation.

These are just 11 examples, all of them huge separately and in the aggregate devastating, potentially—certainly devastating to many individuals and potentially devastating in a huge way to our economy as a whole. The list goes on and on and on.

Some experts say we can't—when we talk about potentially forcing these banks to divest themselves because of their size, some experts say our banks need to compete. They say: No, our banks need to compete with the banks in other countries. But then does anyone truly believe—do any of these bankers on Wall Street or bankers in my State who have acted, frankly, more responsibly—the community banks and the credit unions and the regional banks—does anybody truly believe we should follow the European model where never-ending bank bailouts have become the norm?

We know the world's largest bank, HSBC, at $2.55 trillion, helped launder money from Mexican drug traffickers and Middle Eastern terrorists. As we know by now—all over the newspapers—the eighth largest bank in the world, the $2.4 trillion Barclays—the city where the Olympics are being held—was the first bank caught manipulating the LIBOR rate, not exactly models we should emulate.

Financial reform is supposed to reduce industry concentration. It is supposed to end too big to fail. But the financial sector is even more concentrated now than it was before the financial crisis.

My colleagues will remember what I said at the outset. In 1995, 18 percent of GDP was the assets of these banks. The six largest banks had 18 percent of GDP in 1995. By 2009, it was 68 percent, and it is even worse today—the top 10 banks' assets, 6 percent in 2006, now 77 percent at the end of 2010 and growing, presumably, as a result of mergers during the financial crisis. Three of the four largest megabanks have grown by an average of more than $500 billion—grown by an average of more than $500 billion. They are in the vicinity of $800 billion and $1 trillion and $1.5 trillion and $2 trillion in assets.

The six biggest U.S. banks have combined assets that are twice as large as the rest of the top 50 U.S. banks put together. Think about that. The six largest U.S. banks, their assets total this; and the next largest 50 U.S. banks—big banks, to be sure; hundreds of billions in assets—total even less than the six largest.

According to Robert Wilmers, the CEO of M&T Bank, the six biggest banks in the United States account for 35 percent of all U.S. deposits, 53 percent of U.S. banking assets, 56 percent of all mortgages, and 93 percent—93 percent—of trading revenues.

This is just six banks that wheel such immense power in our economy. The message to the markets is clear: These trillion-dollar megabanks are too big to manage, they are too big to regulate, and they continue to be too big to fail. We still have work to do.

For all of its benefits—including a new consumer protection agency and oversight of derivatives—the Dodd-Frank legislation relies upon regulators to get it right this time.

But given their track record—sometimes being too close to the people they regulate, so-called regulatory capture; sometimes there just are not enough of them; other times they may not have the expertise to be able to chase around some of the smartest, best educated, most experienced banking executives who know how to game the system. Also, as I said, as to these regulators, we simply do not have enough of them.

That is why I am skeptical. That is why we need to go beyond the central provisions of Dodd-Frank that increase capital, that establish living wills, that establish a process for orderly liquidations. Those are all good things. But, clearly—I just mentioned these 10 or 11 or 12 problems; those are just the biggest ones—clearly, those are not enough.

Members of Congress in both political parties agree that banks need to have much more capital to cover their losses—much more of a financial capital cushion. We agree institutions should issue more stock, should restrict dividends, should retain their earnings to build bigger buffers. But while countries such as Switzerland are considering 19 percent capital requirements—a ratio of about 5 to 1—U.S. regulators are staying within the Basel III international capital standards, which FDIC Director Tom Hoenig has said simply will not prevent another financial crisis.

There is also a living will process that is intended to make it easier to resolve large, complex institutions. We talked a lot about that in Dodd-Frank.

Institutions are supposed to tell regulators how they can be dismantled to protect the financial system as a whole and to protect Middle America when they get into financial trouble. But the proof will be in the results.

So far regulators have yet to begin a process of simplifying the six largest banks that have a combined 14,420 subsidiaries. Six banks have 14,420 subsidiaries.

I mention that number because, Madam President, as you think about every look at these six banks, every quantifying number I try to give, every observation of these six banks, every delineation of what these six banks do and what they are, this speaks of these huge, these behemoth banks that are too big to fail—these six banks. They are too big to regulate, and they are too big to manage.

There is title II Orderly Liquidation Authority. I have heard my colleagues, including the ranking member on my subcommittee, Senator CORKER from Tennessee, who coauthored title II, note that the FDIC and Treasury could keep failing banks on life support rather than liquidate them. Is that what we want when we think of too big to fail, too big to manage, too big to regulate?

I have talked to regulators who have privately told me and told Graham Steele of my staff that they believe our banks are still too big to be allowed to fail because the collapse of banks that size could potentially crush the economy.

We remember the fear in the voices of some of the top people in the Bush administration when they talked to us in the fall of 2008 about what was happening to our financial system. I do not think we have answered those fears nearly well enough.

This is not capitalism the way it should be. It is not right. Some of my colleagues think the answer to too big to fail requires repeal of Dodd-Frank—this is about as silly as it gets—and a return to the same unfettered free market approach that Alan Greenspan championed for decades and that led us into this mess—except Alan Greenspan does not even think we should have that again, even though he was the No. 1 cheerleader, he and the Wall Street Journal editorial board, for an unfettered, unregulated Wall Street. He is, to his credit—and I do not give him credit for much in most of the last 10 years—but, to his credit, he has acknowledged that, yes, indeed, he was wrong; that this unfettered, unregulated Wall Street capitalism simply did not work for our country. He acknowledges doing that again would be a recipe for financial crises and bailouts as far as the eye could see.

Instead, we must face the reality that too big to fail is simply too big, and we must enact the SAFE Banking Act because too big to fail and too big to manage and too big to regulate has become the norm, especially among these large six behemoth institutions.

The SAFE Banking Act, my legislation, would place reasonable limits on the share of deposits and the volatile nondeposit liabilities that any one institution could take on. It would require the largest financial companies to fund themselves with more of their own shareholders' equity and less leverage. It would put an end to the government's implicit and explicit support for megabanks—specifically, the six largest Wall Street institutions that, as I spelled out earlier, are in a class by themselves.

Remember those numbers. The six largest banks: 35 percent of all deposits, 53 percent of all U.S. banking assets, 56 percent of all mortgages, 93 percent of trading revenues. Those six institutions have that kind of power in the economic marketplace in large part because of actions here.

Regulators and banking leaders are increasingly voicing support for this bill.

Former Federal Reserve Chairman Paul Volcker recently said the J.P.Morgan episode might be an illustration that these banks are too big to manage.

Former FDIC Chairman Sheila Bair says shareholders and regulators could force banks to break up, but this legislation would be the most direct way to do it.

Richard Fisher, the president of the Federal Reserve Bank of Dallas, and James Bullard, president of the Federal Reserve Bank of St. Louis, agree that more needs to be done to address the problem of too-big-to-fail banks.

Last week, the architect of the too-big-to-fail banking model, former Citigroup CEO Sandy Weill, said the biggest banks should be broken up.

Increasingly, this is not a partisan issue. The ranking member of the Banking Committee, Republican Senator SHELBY from Alabama, supported the SAFE Banking Act when it was a floor amendment, when it was the Brown-Kaufman floor amendment.

I have heard from more and more of my colleagues on both sides of the aisle that they might have voted against it a couple years ago as a floor amendment, but things have gotten worse. The idea is sounding better and better to them.

This legislation would protect taxpayers by putting megabank shareholders on the hook for losses and ending bailouts for good.

At a time of increasing fiscal restraint, our Nation can ill-afford to waste precious taxpayer dollars bailing out our largest banks in their recklessness.

My legislation would benefit the community banks that are at an unfair competitive disadvantage because megabanks have access to cheaper funding based upon the perception that the government stands behind them.

Studies estimate this support gives megabanks a 70 to 80 basis point funding advantage. Madam President, 70 to 80 basis points means three-fourths, four-fifths of a percent on interest advantage, if you will—a subsidy encouraged, provided, for that matter, by the expectation of taxpayer support of up to $60 billion per year.

So if you are one of the six big banks, you can borrow money in capital markets at a lower cost than if you are a community bank in Carey, OH, or a community bank in Sandusky or a mid-sized bank in Columbus or Akron, OH, because the market knows we will not let those six biggest banks fail. So their lending is a little less expensive because there is a lot less risk.

My legislation will benefit investors, as many experts agree that the sum of the parts of the largest megabanks is more valuable than the banks as a whole. So under our legislation, when they begin—these six megabanks, with assets from $800 billion to $2.2 trillion—when they begin to divest themselves, there is a reasonably good chance they will be worth more in the aggregate than they were in the whole.

It will benefit Main Street families and businesses because increased competition will result in better prices, and fraudsters will be punished with the full force of the law. Just about the only people who will not benefit from my plan are a few Wall Street executives who, frankly, have done just fine in the last 10 years.

We simply cannot wait any longer for regulators to act. Wall Street has been allowed to run wild for years. Their watchdogs are either not up to the job or, in some cases, complicit in their activities.

How many more scandals will it take before we acknowledge that we cannot rely on regulators to prevent subprime lending, dangerous derivatives, risky proprietary trading, and even fraud and manipulation?

Even if the regulators wanted to do the job—and I think they do—it would require 70,000 examiners to examine a trillion-dollar bank with the same level of scrutiny as a community bank.

The regulation of the community banks is plenty, but when its comes to the six largest banks, we are not even close. Again, they are too big to fail, they are too big to manage—look at what has happened, those examples I gave—and they are too big to regulate.

We cannot rely on the market to fix itself. The six largest Wall Street megabanks are essentially an oligopoly and a cartel, making true competition impossible.

Megabanks' shareholders and creditors have no incentive to end too big to fail because they get paid out when banks are bailed out. They get paid out when banks are bailed out. And banking laws prevent meaningful management shakeups because any hostile takeover effort would require Federal Reserve approval.

That is why it is time for Congress to act in the interests of the American public. It is time to restore the public's confidence in our financial markets. It is not there now, to be sure. It is time to put an end to Wall Street welfare and government subsidies. We have seen far too much of that. It is time to enact the SAFE Banking Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I see the Senator from North Dakota on the Senate floor, and I wonder if he seeks recognition. He is my chairman on the Budget Committee. I am inclined to give him precedence.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, through the Chair, I would say to my colleague, I do have a matter that is a parliamentary inquiry that is a matter that is important for us to resolve. I do not want to intrude on the Senator's time.

Mr. WHITEHOUSE. Madam President, may I suggest that the Senator proceed, and it would be helpful to me if he could give me an indication, first, of how long he might be and, second, that we enter into a unanimous consent agreement that I be recognized following his remarks.

Mr. CONRAD. No more than 4 minutes.

Mr. WHITEHOUSE. Perfect.

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

Mr. WHITEHOUSE. I thank the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

PARLIAMENTARY INQUIRY—FISCAL YEAR 2013 BCA SEQUESTRATION

Mr. CONRAD. Madam President, I come to the floor today to clear up some confusion with respect to the Budget Control Act of 2011. Some have suggested that the Budget Control Act indirectly authorized the Senate to use a fast-track process to modify the across-the-board cuts scheduled to go into effect next year due to failure of the Joint Select Committee on Deficit Reduction.

Madam President, if that claim were true, it would result in a fundamental change in Senate procedures and prerogatives. However, it is clear in looking at both the statutory language and Congress's intent in passing the Budget Control Act that this claim is completely without merit.

First, let's look at what the law actually says. The key provision at issue is section 258A of the Deficit Control Act of 1985. Section 258A would allow the majority leader to introduce a joint resolution to modify or provide an alternative to a sequestration order—and I quote—''issued under Section 254.'' That joint resolution could not be filibustered and would pass the Senate with a simple majority vote. The sequestration orders under section 254 were put in place two decades ago to enforce deficit targets and discretionary spending limits that have long since expired.

A sequestration order under the Budget Control Act is not an order issued under section 254. The Budget Control Act created a new sequestration process under a completely different section of the law: section 251A. Section 251A explicitly authorized a new set of Presidential sequestration orders in fiscal year 2013 for both discretionary and direct spending, and did so without any reference at all to the old section 258A procedures. The statutory language is clear, therefore, that these old procedures do not apply to sequestration under the Budget Control Act.

It is also clear that Congress never intended for section 258A procedures to apply. There was no discussion of this issue on the floor of either House. There was no discussion of this in the Budget Control Act negotiations between congressional Republicans and the White House, and there was no discussion of this among Democratic Senators. Moreover, the Budget Control Act and the Deficit Control Act of 1985 are completely separate budget enforcement mechanisms enacted 26 years apart and under entirely different circumstances.

Simply put, there is zero evidence of any congressional attempt to apply the 258A procedures to the Budget Control Act sequestration. In order to confirm this for the RECORD, I would like to pose a parliamentary inquiry to the Presiding Officer.

Madam President, is it correct that section 258A of the Deficit Control Act of 1985 does not apply to the fiscal year 2013 sequestration?

The PRESIDING OFFICER. The Senator is correct.

Mr. CONRAD. I thank the Chair. I think it is an important decision to get affirmed publicly so that we might proceed and not be engaged in distractions.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

NIH FUNDING

Mr. WHITEHOUSE. Madam President, last spring Cathy Hutchison picked up a cup of coffee and took a sip. Now, why have I come to the floor of the Senate to talk about Cathy Hutchison picking up a cup of coffee last spring and taking a sip? Because 15 years earlier, Cathy Hutchison was working in her garden when she suffered a stroke that left her paralyzed.

Cathy did not just lose the ability to use her arms and legs, she also lost the ability to speak. I am sorry to say this condition is not unique to Cathy. It happens regularly enough that there is a medical term for it, locked-in syndrome. That is how Cathy lived for nearly 15 years: alert and mentally sharp but unable to move or speak, a prisoner in her own body.

All of this changed last spring when, for the first time in nearly 15 years, Cathy picked up that cup of coffee and took a sip. Cathy Hutchison is a patient enrolled in a clinical trial at Brown University in Providence, RI. They are testing a neural interface device known as BrainGate.

BrainGate works by placing a small sensor on the brain. The sensor is connected to a computer that interprets the brain's signals to control a specially designed robotic arm. The university researchers asked Cathy to imagine that she was moving her arm in different directions. Then they monitored which neurons fired for those corresponding movements, all in her imagination.

Using this brain wave information, researchers attached a robotic arm to the computer. The computer translated the electrical impulses detected by the sensor in Cathy's brain back into commands to tell the arm what to do.

Cathy communicates through a device that allows her to type using the movement of her eyes, and she typed that she was ''ecstatic'' about the new technology and hopes it can be expanded to one day allow her to walk again.

The BrainGate team is also working to determine if this technology can ultimately be used to help individuals paralyzed by stroke or injury to regain greater independence. BrainGate is an example of what is possible when the best minds in science and engineering come together for the common good.

Researchers from Brown University, the Department of Veterans Affairs, Massachusetts General Hospital, and the German Aerospace Center collaborated on this project. Their efforts were supported by a grant from the National Institutes of Health, as well as funding from the Veterans' Administration, and several private foundations. BrainGate is just one of the most recent in a long list of medical breakthroughs that are made possible by our National Institutes of Health. The NIH is the cornerstone of our commitment to medical research for the benefit of humanity.

Research supported by the NIH has led to medical advances that have saved and improved countless lives while making America the world leader in discovery and innovation. More than 80 Nobel prizes have been awarded for research supported by the National Institutes of Health.

In Rhode Island, Brown University has received NIH grants to support cutting-edge research on a multitude of diseases, including cancer, dementia, and muscular dystrophy. In fact, the scope of projects at Brown that receive NIH support is so diverse that the university describes its NIH-backed research as covering everything from autism to Alzheimer's. Yet there are those in Congress who have suggested cutting the NIH's budget.

Let's be clear about what cutting the NIH's budget means. It means cutting off funding for research that has provided Cathy Hutchison her first taste of physical independence in 15 years. It means telling the millions of Americans suffering from cancer that they have to wait longer for lifesaving research. It means suffocating a vibrant area of innovation and job creation.

Cutting the NIH budget has ripple effects far beyond just one Federal agency. Quite simply, it will hurt job growth. Medical research is one of the fastest growing fields nationwide. In Rhode Island and across the country, cities are undergoing a renaissance sparked by the growth of high-paying careers in medical research.

I have heard friends on the other side of the aisle talk at length about how we need to do more to create jobs. Well, I could not agree more. Now is no time to put jobs at risk by cutting back on the research funding that makes them possible. I know the Appropriations Committee recently reported a bill to the floor that would increase the NIH budget by $100 million for the coming fiscal year. I applaud my colleagues on the Appropriations Committee for their commitment to this vital agency, and I hope we will soon be able to vote on their measure. But there is something looming on the horizon that will render this $100 million increase all but meaningless. I am talking, of course, about sequestration, under which it is estimated that NIH will face not a $100 million increase but a $2.4 billion cut.

I know a lot of my colleagues have discussed the effect that the sequester will have on defense spending, but it is important to remember that 50 cents out of every dollar of cuts that will occur under sequester will come out of nondefense spending, including specifically the NIH.

''Devastating'' is the word that keeps being used when people are asked how sequester would affect our National Institutes of Health. That is how NIH Director Dr. Francis Collins described the effect of a nearly 8-percent cut to the agency's budget. Those who are familiar with science know how important it is in ongoing experiments that there be a consistent data set through the period of the research.

When we interrupt research for financial reasons, we can damage the value of research conducted in other years. I agree with my colleagues that we must reduce our long-term deficit, but when we cut funding that creates jobs and leads to lifesaving medical breakthroughs we are pursuing policies that are the epitome of penny-wise but pound-foolish.

I hope we in the Senate can work together to find sensible solutions that reduce the deficit while maintaining our longstanding commitment to medical research and innovation. We owe that much to Cathy and to the millions of Americans whose futures will be brighter thanks to the research and jobs made possible by our American National Institutes of Health. When Cathy Hutchison interacts with the BrainGate program, it is hard not to get the sense that we are looking into the future, a future where people like Cathy will know that disease or injury will not transform their bodies into a prison.

It was Arthur C. Clarke who said ''any sufficiently advanced technology is indistinguishable from magic.'' For Cathy, for the BrainGate research team, and indeed for anyone who may one day benefit from this remarkable technology, that sip of coffee last spring taken by Cathy Hutchison was a moment of magic. Let's commit ourselves to providing Cathy, the BrainGate team, and all of those who are relying on us in this body to provide the support they need to keep making magical moments like this possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

PRODUCTION TAX CREDIT

Mr. UDALL of Colorado. Madam President, I am here again on the Senate floor, as I have been on 14 previous occasions, to urge all of us, to urge my colleagues in the Senate and, of course, our colleagues down through the Rotunda in the House to extend the production tax credit for wind. It is also known by its shorthand as the PTC.

The reason I am here on the floor, as I have said many times before, this is about jobs. If we do not extend the production tax credit as soon as possible, we will lose good-paying American jobs. It is that simple. It is that straightforward.

I am going to keep speaking on the floor of the Senate until my colleagues decide to act, until Congress decides to take the necessary action to extend the production tax credit and protect American jobs. I want to underline that. We are going to protect American jobs and help secure our energy future in the 21st century where clean energy will be a dominant part of the mix.

It has been a treat to come to the floor to do this on one hand because I am touring the country. I focus on a State when I come to the floor. Today I want to focus on the great State of Oregon, where the wind industry is a major part of their economy, and where the PTC's positive ripple effects have been felt statewide.

In short, Oregon is a national leader in wind power. I want to share some of the statistics to make the case. According to the American Wind Energy Association, Oregon ranks sixth in power derived from wind. The wind energy industry supports roughly 3,000 jobs in Oregon. That number is poised to grow but only if we extend the production tax credit.

As we look at the map of Oregon, we can see that Oregon has installed extensive wind power projects along the Colombia River Valley in the northern part of the State. The Colombia basically delineates the State of Oregon from the State of Washington on the right here along its northern boundary. There are enough projects there producing enough power so that 700,000 homes would have electricity from those wind-power projects.

The Biglow Canyon Wind Farm is the ninth largest wind farm in the Nation. And Oregon's Second Congressional District, which is a very big district, much like the Western Slope district, Colorado's Third District, ranks fourth in the United States for installed wind capacity. Over the last decade, one county alone, a relatively small county, Sherman County, has seen over $18 million in revenues coming into that county due to the simple presence of the wind energy industry.

That money has helped Sherman County do impressive things. They have created jobs and improved their infrastructure, including building a new public school and library, supporting the Sherman County History Museum, and installing solar panels on county property. A hybrid system is in use using renewable energy with those solar panels. Those are impressive achievements.

Oregon's wind energy potential is tremendous. Currently there are plans to more than triple the amount of power that Oregon gets from wind.

That would mean a total of 9,000 megawatts of electricity. That would power over 2 million homes. Moreover, such a move, such an investment, would create thousands of jobs.

I want to go back to my main point. The wind production tax credit has been a major driver of this growth in the last decade, encouraging some wind energy producers to invest in Oregon and the rest of our country. The PTC has encouraged American innovation, and innovation is how we will grow our economy. It has supported American companies in the wind energy sector. I know the Presiding Officer knows this—and I look forward to the opportunity to talk about her State of North Carolina in the future. The PTC has enticed foreign companies to bring their operations—jobs—to the United States. Because of the PTC, these companies are building factories and offices in the United States.

I want to talk about Vestas, a Danish company that has a significant manufacturing presence in Colorado—four different plants. Last Saturday, I was at a Vestas plant in Pueblo. They support many jobs in Colorado. Vestas also has a strong presence in Oregon. In fact, their U.S. headquarters is located in one of the most livable cities in the world, that being Portland. Vestas has made a real statement about the potential here in the United States.

Again, the point I am making is it is clear to me and a large, growing, and bipartisan group of colleagues in both Houses of Congress, including both of my colleagues from Oregon, Senators MERKLEY and WYDEN, that extending the production tax credit is the right thing to do. It is the right thing to do for our future, for our economy, and for our environment. Without the PTC—if you look at the other side of this success story—the sustained growth of the wind industry in recent years will slow—it already has—and possibly halt, and we actually may see good-paying American jobs being lost to China and other countries. Why would we want that to happen? We cannot let that happen. The continued uncertainty is not right and not fair when it comes to our U.S. wind industry and the people who work in that sector.

Last Saturday, I heard from the workers at the Vestas plant in Pueblo that they didn't know whether they were going to have jobs in a few months. The looks on their faces alone should motivate all of us to get the wind production tax credit extended. This is also an opportunity for us in Congress to show the American public that we are not as dysfunctional as a Congress as the public believes. This is a chance to support economic growth and American manufacturing right here in our country. The American people expect us to produce results, and we can only do so by working together.

I fear that the wind production tax credit has become a political football. We have a chance to show the American public, who are sick of campaign year rhetoric and politics, business as usual and partisanship, that we can rise above that. I reiterate that this is a perfect opportunity for us because this is not a partisan issue. It has widespread support from both parties across our country. I have been highlighting that fact over the last few weeks.

What can we do? We ought to understand that the production tax credit equals jobs. We ought to pass it as soon as possible. As I wind down, I note that the Senate Finance Committee is meeting right now to consider a tax extenders package. I know many colleagues on the Senate Finance Committee, including Oregon's senior Senator RON WYDEN, are working to include the PTC in the package. I add my voice to those who are already in place, urging the Finance Committee to pass an extension of the PTC today as a part of the tax extenders package, and then let's move the full Senate to the point where we can pass the PTC as soon as possible. Why? Because we are protecting American jobs and we are preparing the ground for additional job creation that is crucial, growing, and exciting in the 21st century to the wind energy industry.

I thank the Chair for what her State is doing for wind power. I look forward to talking about North Carolina.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I am delighted to follow the distinguished Senator from Colorado and commend him for his persistence and his passion on preserving the wind production tax credit. We have, as he will recall from our previous discussions together on the floor, facilities that we hope to have going up offshore of Rhode Island very soon that will provide a local source of energy for us, reduce our reliance on imported oil, and create significant and well-paying jobs at home. So I am glad to be his wingman in this pursuit and thank him for his leadership.

CLIMATE CHANGE

Madam President, yesterday marked the end of what is expected to be one of the top five warmest months on record. The USDA recently declared nearly 1,400 counties in 31 States, including, I am sure, many in Colorado, disaster areas as a result of the ongoing drought. NASA and NOAA declared the last decade the warmest on record. In 2011, we faced 14 weather-related disasters that totaled more than $1 billion in damage each. We already have several more that have occurred in 2012.

I have come to the floor today to discuss the science of climate change. Virtually all respected scientific and academic institutions have agreed that climate change is happening, and that human activities are the driving cause of this change. A letter to Congress from a great number of those institutions in October 2009 stated that:

> Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research demonstrates that the greenhouse gases emitted

by human activities are the primary driver. These conclusions are based on multiple independent lines of evidence, and contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science.

If I were to translate that last phrase into layman's terms, it would basically mean if you are saying anything different, we should be looking for your motives.

This letter was signed by the heads of the following organizations: the American Association for the Advancement of Science, American Chemical Society, American Geophysical Union, American Institute of Biological Sciences, American Meteorological Society, American Society of Agronomy, American Society of Plant Biologists, American Statistical Association, Association of Ecosystem Research Centers, Botanical Society of America, Crop Science Society of America, and a great many others.

These are highly esteemed scientific organizations, and they don't think the jury is still out on climate change. They recognize that, in reality, the verdict is in, and it is time to act.

Over the weekend, Dr. Richard Muller, professor of physics at the University of California-Berkeley, and also director of the Berkeley Earth Surface Temperature Project, and a former MacArthur Foundation Fellow—a so-called genius grant award winner—revealed in a New York Times op-ed how he has become a converted climate skeptic. He cites findings from his research, which ironically was partially funded by the Koch brothers, that the Earth's land temperature has increased by 2½ degrees Fahrenheit in the past 250 years and 1½ degrees over the past 50 years. He states:

Moreover, it appears likely that essentially all of this increase results from the human emission of greenhouse gases.

Unfortunately, human emission of greenhouse gases is on the rise. In 2011, the famed Mauna Loa Observatory documented the biggest annual jump yet in carbon dioxide. A monitoring station in the Arctic this year measured carbon dioxide at 400 parts per million for the first time, which is 50 parts per million higher than the maximum concentration at which scientists predict a stable climate. Of course, 400 parts per million is way outside the 170 to 300 parts per million bandwidth that has existed on this planet for the past 8,000 centuries. For 800,000 years, we have been between 170 and 300 parts per million, and now in the bellwether leading-edge Arctic area, we cracked 400 in our climate.

A 2012 report by the IPCC concludes that climate change increases the risk of heavy precipitation. Rhode Islanders are no stranger to heavy precipitation. In 2010, we saw flooding that exceeded anything we have seen since the 1870s, when Rhode Island first started keeping records. At the height of the rains, streets in many Rhode Island cities and towns looked more like rivers than roads. Local emergency workers sailed down Providence Street, a main road in West Warwick, by boat and jet skis—down a main road on boats and jet skis—in order to assist residents trapped by the floodwaters. Of course, we cannot link that exact storm to climate change, but we know that climate change is increasing the risk of extreme weather events like this one. It is loading the dice for more and worse storms.

As a New Englander, I was concerned by a report released this week by Environment America, titled ''When It Rains, It Pours.'' The report found that in New England ''intense rainstorms and snowstorms [are] happening 85 percent more often than in 1948. The frequency of intense rain or snowstorms nearly doubled in Vermont and Rhode Island, and more than doubled in New Hampshire.'' Not only are these inundations happening more often, but the largest events are actually dumping more precipitation—around 10 percent more on average—across the country. For States such as mine, these storms are dangerous, expensive, and cause lasting damage.

We are moving down a troublesome and unknown path. The best we can do now is to prepare for dramatic environmental shifts. We must look to science and scientists and use the best available data to protect and prepare both our natural and built environments, which sustain us and our economy. Ensuring the integrity of our infrastructure in the face of a rapidly changing climate is essential. I want to focus for a minute on that infrastructure. Coastal States face a particularly unique set of challenges, so the infrastructure challenge for Rhode Island is worse than many places. We face what I call a triple whammy, as we must adapt not only to extreme temperatures and unusual weather but also to sea level rise.

As average global temperatures rise, less water will be stored in snowpack and on the ice sheets of Antarctica and Greenland. We also know that at higher temperatures water expands to greater volume, so that leads to a sea level rise, which is predicted to range from 20 to 39 inches by 2100, with recent studies showing that the numbers could be even higher due to greater than expected melting of glaciers and ice sheets. This is not a theory. We are into the realm of measurement.

Long-term data from tide gauges in the historic sailing capital of Newport, RI, show an increase in average sea level of nearly 10 inches since 1930. At these same tide gauges, measurements show that the rate of sea level rise has increased in the past two decades compared to the rate over the last century. This is consistent with reports that since 1990 sea level has been rising faster than the rate predicted by models used to generate IPCC estimates.

Sea level rise is one thing, and the increase in storm surges that will accompany it is even worse and promises to bring devastation to our doorsteps. Critical infrastructure in at-risk coastal areas—roads, powerplants, wastewater treatment plants—will need to be reinforced or relocated. Additionally, our estuaries, marshes, and the barrier islands that act as natural filtration systems and buffers against storms will be inundated, with little time or space to retreat and move inland as they have in the past. The oncoming weather is coming on too fast.

One consequence of rising sea levels is that local erosion rates in Rhode Island have doubled from 1990 to 2006, and some freshwater wetlands near the coast are transitioning to salt marsh. Increased sea level and erosion puts critical public infrastructure at risk. In one example, we have a small but vibrant coastal community, Matunuck, where beaches have eroded 20 feet over the past 12 years. The town has to face difficult decisions as the only road connecting about 1600 residents and several restaurants and businesses is protected now by less than a dozen feet of sand from the ocean. This road, which provides access for emergency vehicles and lies on top of a water main, must be protected. But what are the costs of protecting this piece of road for areas nearby or farther down the shore? Often when you protect one area of beach from erosion by hardening or altering the shoreline, you do so to the sacrifice of other areas. It takes science and data to sort out how to do that right.

These are not easy decisions for communities. To best protect infrastructure and the communities and families who live in these at-risk areas, we have to, as a nation, plan ahead. We have to use the best and most reliable science, and we have to be able to prioritize adaptation efforts.

In North Carolina, the State legislature considered a measure that would have severely restricted the ability of their Coastal Resources Commission to employ scientific estimates of future sea level rise. That is the ultimate case of the ostrich burying its head in the sand—in this case, the beach sand. This type of thinking will cost money and lives in the future.

In Rhode Island, we are taking a different approach.

We have to if we want to protect public health and safety. Rhode Island has 19 ''high hazard'' dams that have been deemed ''unsafe'' by our Department of Environmental Management. We have 6,000 onsite waste water treatment systems located near the coast, several landfills that may be susceptible to coastal erosion and evacuation routes that could be underwater as sea levels rise.

In 2008, our Coastal Resources Management Council adopted a climate change and sea level rise policy to protect public and private property, infrastructure, and economically valuable coastal ecosystems. The policy states the following:

The Council will integrate climate change and sea-level rise scenarios into its operations to prepare Rhode Island for these new, evolving conditions and make our coastal areas more resilient.

It is the Council's policy to accommodate a base rate of expected 3–5 foot rise in sea level by the year 2100 in the siting, design, and implementation of public and private coastal activities and to insure proactive stewardship of coastal ecosystems under these changing conditions. It should be noted that the 3–5 foot rate of sea-level rise assumption embedded in this policy is relatively narrow and low. The Council recognizes that the lower the sea level rise estimate used, the greater the risk that policies and efforts to adapt sea-level rise and climate change will prove to be inadequate.

This policy is already helping the State make smart decisions. For example, when a new pump station was needed at a sewage treatment plant, CRMC looked at sea-level rise models before determining where it should go, avoiding future relocation costs or malfunction in the face of flash flooding and sea level rise.

In 2010, our general assembly created the Rhode Island Climate Change Commission to study the projected impacts of climate change on the State, develop strategies to adapt to those impacts, and determine mechanisms to incorporate climate adaptation into existing state and municipal programs. A draft progress report from the Commission lists many ways the state is planning to adapt to climate change, including: Creating a ''Structural Concept and Contingency Plan to Inundation of the Ferry Terminals and Island Roadway Systems''; creating the ''Central Landfill Disaster Preparedness Plan''; national grid, our electricity and natural gas utility, undertaking a ''Statewide Substation Flooding Assessment''; the Army Corps of Engineers, FEMA, and the Rhode Island Emergency Management Agency conducting a ''Hurricane and Flooding Evacuation Study''; and the list goes on and on.

In the town of North Kingston, RI, they have taken the best elevation data available, and modeled 1, 3, and 5 feet of sea-level rise, as well as 1 foot of sea-level rise plus 3 feet of storm surge. By overlaying these inundation models on top of maps identifying critical infrastructure such as roads, emergency routes, railroads, water treatment plans, and estuaries, the town will be able to prioritize transportation, conservation, and relocation projects. They are also able to quantify the costs of sea-level rise. In one small area of the town, 1 foot of sea-level rise would put two buildings, valued at $1.3 million, underwater. Five feet of sea-level rise, however, jeopardizes 116 buildings valued at $91 million.

Similarly, by modeling how sea-level rise will impact estuaries, towns can preserve areas that will stay wetlands or undeveloped areas that will become wetlands in the future, as opposed to areas that will be lost. Estuaries act as nurseries for our hugely valuable fisheries, and protect our homes, buildings and communities from storm surge. There is already limited funding to protect these important ecosystems and this kind of planning promotes efficiency in spending.

Let me close by saying that it is now well past time for us as a country to start making policy that helps us adapt to the emerging scientific reality that our actions indeed do affect our environment. For those of us who are ocean States, the state of our oceans and coastlines is particularly significant, and I urge my colleagues to support our National Endowment for the Oceans, which got all the way into the conference committee on the highway bill before it was taken out in an unfortunate, unwise, and, frankly, unfair maneuver.

We are at a place now where nature could not be giving us clearer warnings. Whatever higher power there is—and we each have our own beliefs on that—that higher power that gave us our advanced human capacity for perception, for calculation, for analysis, for deduction, and for foresight has laid out before us more than enough information for us to make the right decisions. Only a wild and reckless greed or a fatal hubris could blind us to the distress signals coming from our oceans, our atmosphere, and our world. Fortunately, these human capacities still provide us everything we need to act responsibly but only if we will.

I thank the Presiding Officer, and I yield the floor.

EXECUTIVE SESSION

NOMINATION OF GERSHWIN A. DRAIN TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

The PRESIDING OFFICER (Mrs. MCCASKILL). Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant bill clerk read the nomination of Gershwin A. Drain, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The PRESIDING OFFICER. There will be 1 hour of debate equally divided.

Mr. LEAHY. Mr. President, earlier this week, Senate Republicans followed through on their partisan opposition to the President by slamming the door on a highly qualified, consensus circuit court nominee with bipartisan support. It was the first time in history that a circuit court nominee reported with bipartisan support from the Judiciary Committee was successfully filibustered. Judge Robert Bacharach, who was nominated to the Tenth Circuit Court of Appeals, had had the strong support of his Republican home State Senators, Senator COBURN and Senator INHOFE. Unfortunately, they chose not to vote to end the unprecedented filibuster of his nomination and cloture fell just short. This deprived the people of Oklahoma and the Tenth Circuit of an outstanding judge who could today be serving the American people as an appellate judge. The Bacharach nomination is one of the many judicial nominees ready for final action by the Senate but being delayed by Republican opposition.

There was an article in the Washington Post this morning entitled ''A Bench with Plenty of Room'' about the judicial vacancies being perpetuated by partisanship all to the detriment of those seeking justice in our Federal courts. It notes that a lower percentage of President Obama's nominees have been confirmed than had been during the Bush administration and that at this point during the Bush Presidency there were only 28 judicial vacancies. It observes that ''Obama, with 78 vacancies, may be the first president in decades to end his first term with more judicial vacancies than when he began.'' We can change that if Senate Republicans will cooperate in the consideration of the 23 judicial nominees on the Senate Executive Calendar awaiting a final, up-or-down confirmation vote. I ask that a copy of that article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 1, 2012]

A BENCH WITH PLENTY OF ROOM

The Senate's rejection Monday of Oklahoma Magistrate Judge Robert Bacharach for a U.S. Court of Appeals seat sent a clear message to the three other appellate nominees hoping for a vote on the Senate floor:

Fuhgeddaboudit.

Ditto for 16 U.S. District Court nominees also pending in committee. The odds of judicial confirmations after this August recess are exceptionally slim—at best. The Cubs will win the pennant before you'll be putting on the black robes.

No nominees were confirmed after the August recess when President Bill Clinton was running for reelection in 1996 and only three when President George W. Bush was running for a second term in 2004—although five got in during the lame-duck session.

Still, a whopping 13 George H.W. Bush nominees, including two for appellate seats, were confirmed after the August recess in 1992, according to Senate Judiciary Committee statistics.

Four Clinton judicial picks were confirmed after the recess in 2000, when Bush II and Al Gore were running, and 10 Bush judges were confirmed during the race between Barack Obama and John McCain, the committee reports.

So with the numbers pretty much set, let's recap.

President Barack Obama, who started off slowly in getting nominations up to the Senate, never fully caught up. He's nominated fewer judges (200) than either Bush (228) or Clinton (245) on Aug. 1 of their fourth year in office, according to committee statistics.

At the same time, the Senate has confirmed a smaller percentage of Obama nominees than Clinton nominees—78 percent, compared with 80.8 percent—and a much smaller percentage than in the Bush administration (86.4).

As a result, Obama, with 78 vacancies, may be the first president in decades to end his first term with more judicial vacancies than when he started.

At this point in their first terms, Clinton had 58 judicial vacancies and Bush had 28. (The latter figure is pretty much full employment.)