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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, September 8, 2009, at 2 p.m.

Senate

THURSDAY, AUGUST 6, 2009

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal spirit, thank You for the continuous blessings of Your handiwork. From the first blush of dawn to the wonders of the starry heavens, we are daily made aware of Your creative might.

Bless our Senators to see the wonder of Your presence on Capitol Hill today. In the hands of the many workers who enable them to do their work, help them to catch a glimpse of the unity and cooperation You desire for them. Make them willing to both receive and give forgiveness as they manifest Your spirit in deeds of kindness. As our lives intertwine through common tasks, remind us that ultimately we are accountable to You. Guide our thinking, speaking, and decisions that we may live worthy of Your great love.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 6, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks, there will be a period of morning business until 10 a.m., with Senators permitted to speak therein for up to 10 minutes each. It is my understanding the senior Senator from Iowa wishes to speak on a sad note in his life, and if he needs more than 10 minutes, I ask unanimous consent that be the case.

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

Mr. REID. At 10 a.m., the Senate will resume consideration of the nomination of Sonia Sotomayor to be an Associate Justice of the Supreme Court of the United States. The debate until 2 p.m. will be controlled in alternating hour blocks of time, with the Republicans controlling the first hour and the managers and leaders controlling the time from 2 p.m. until 3 p.m., with each permitted to speak for up to 15 minutes. At 3 p.m., the Senate will proceed to vote on confirmation of the nomination.

Upon disposition of the nomination, the Senate will turn to the emergency supplemental appropriations bill for the Consumer Assistance to Recycle and Save Program, known as cash for clunkers. Under an agreement reached last night, seven amendments are in order prior to a vote on passage of the bill. Each amendment has up to 30 minutes of debate prior to a vote. I am hopeful that some debate time can be yielded back so that we will be able to begin voting at a reasonable time this afternoon.

APPRECIATION FOR COOPERATIVE SPIRIT

Madam President, I wish to spread on the record my appreciation for the cooperation from all Senators. We worked through some difficult things yesterday to get to the point where we are today. I especially wish to express my appreciation to the Republican leader, Senator MCCONNELL, who had to work through some difficult issues on his side, as I did on mine. We spoke and met yesterday many times. Of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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course, our most helpful staff was with us every step of the way—on our side, Lula Davis, and on MCCONNELL's side, Dave Schiappa—and we appreciate very much their expertise in this area.

FRANKEN MAIDEN SPEECH

Finally, I wish to say briefly that our newest Senator, AL FRANKEN, gave his maiden speech last night. It was really very good. I was so impressed with how well prepared he was. I was very impressed with how well he delivered the speech. Here is a man who is a Harvard graduate, best-selling author, and entertainer. Now he is a U.S. Senator, and the people of Minnesota are so fortunate. If things work out as I think they will, he will be presiding over the Senate when the historic vote is called today on the new Supreme Court Justice.

HISTORIAN RETIREMENT RECEPTION

Madam President, Senate Historian Dick Baker will be retiring. In honor of his service to the Senate and the Senate community, there will be a reception today from 3:30 to 5:00 in the LBJ Room, S. 211. He is a wonderful scholar, a great writer, and a lecturer, and we are going to miss him very much.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business until 10 a.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Iowa is recognized.

TRIBUTE TO MARY JO HOFFMAN

Mr. GRASSLEY. Madam President, this morning a funeral service will be held in Sioux City, IA, for a 44-year-old woman who began working for the people of Iowa in my office in January of 1988. Mary Jo Hoffman was a loyal and trusted adviser to me and a beloved friend to my wife, Barbara, our family, and many of my Senate staff who served with her more than a decade ago and still, in a sense, are serving with her today.

Always filled with purpose, Mary Jo spent the last 2 years 4 months fighting cancer with the tenacity, strength, and determination we all knew and loved about her. When Mary Jo set her mind to something, she didn't let much get in her way. She was that way when I met her when she was a bright young college student at the University of Northern Iowa, my alma mater, and she was that way when she worked effectively to serve constituents, first as a legislative correspondent, then as scheduler and as a top aide in my Senate office, and later on when she worked for my political campaigns. I valued her judgment and appreciated her hard work and commitment to quality in every position she held. Mary Jo also taught at night as a volunteer and earned a master's degree while working on Capitol Hill.

She reached out and gave to others in so many ways through her church, in her community, and even on the U.S. Air Force base in Greece where she lived for a short period of time with her husband while he was serving. Someone in need had a friend in Mary Jo. She always got a lot done, and she did it in a way that was generous, spirited, and committed to ideals.

Mary Jo was a person of great faith. She provided leadership wherever she went through worship and fellowship and with the example she set with her own life. Mary Jo was a faithful witness for Christ and never more so than the darkest hours and days of her last 2 years. She will continue to inspire those of us who were lucky enough to have her in our lives.

We all mourn Mary Jo's departure, and our heart goes out to her family, including her devoted husband, Brent, and mother, Karen. I know Mary Jo's beautiful young children, Silas and Lydia, will miss her every day. I pray that they find comfort in the honorable life lived by their mother and my dear friend Mary Jo. She served the people of Iowa and the Lord with distinction and humility. She left this world for the next with courage and grace.

I wish to read one sentence from the Sioux City Journal which I think sums up her life: ''Her words were like thunder because her life was like lightning.''

Madam President, I ask unanimous consent to have the full text printed in the RECORD.

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

[From Sioux City Journal, Aug. 4, 2009]

MARY JO HOFFMAN

SIOUX CITY.—Mary Jo Hoffman, 44, passed on to heaven on July 31, 2009, having lived life well and faithfully. She leaves a timeless legacy of faith and love for family and friends. Her words were like thunder because her life was like lightning.

Memorial services will be 11 a.m. Thursday at Heartland Community Baptist Church, 3601 Country Club Blvd., Sioux City, with the Rev. Gene Stockton officiating. A luncheon will follow the memorial service. Burial will be at a later date in Arlington National Cemetery, Washington, D.C. Visitation with the family will be 5 to 7 p.m. Wednesday at Meyer Brothers Colonial Chapel. Condolences may be sent online to www.meyerbroschapels.com.

Born in Centerville, Iowa, on April 5, 1965, Mary Jo was a precocious student and musician, graduating as class salutatorian from Chariton (Iowa) High School in 1983. She adored her family and friends.

She received her bachelor of arts degree from the University of Northern Iowa in 1987, graduating with high honors. During a distinguished career, she put her faith in action through teaching and public service. She worked on Capitol Hill for many years, serving proudly on the staff of Senator Chuck Grassley. She also earned a master of arts degree from George Mason University in Arlington, Va.

While living in Virginia and attending First Baptist Church of Alexandria, Mary Jo (Archibold) met and married Brent Hoffman. She joined Brent on military assignments in Greece and at the Pentagon. Their children, Silas and Lydia were born in 2000 and 2002, and she promptly set all career plans and ambitions aside. In 2004, they returned to their native Iowa and Sioux City. Though she maintained interests in fundraising and community service, she was a mother who put her family's needs first and foremost. She enjoyed reading, music, cooking, politics, knitting and most of all, visiting with friends and family.

Though admired for her extraordinary achievements, she was beloved for her faith and kindness. She accepted Christ as her Savior and her faith in God was the driving purpose in her life. Friends describe Mary Jo as a bright shining light who lived a life pleasing to God. Her influence will not be forgotten.

Survivors include her children, Silas and Lydia; her husband, Brent; her parents, Ron and Karen Stein of Mason City, Iowa; a sister, Malinda Hilzer of Des Moines; and many other relatives, all of whom she loved and are left to cherish her memory.

She was preceded in death by her father, D.W. Archibold; and her grandparents.

A memorial has been established in the name of Mary Jo Hoffman at Heartland Community Baptist Church.

ORDER OF PROCEDURE

Mr. KAUFMAN. Madam President, I ask unanimous consent that the time between now and 10 o'clock be distributed as follows: 5 minutes for Senator ALEXANDER and then the rest of the time be equally divided between Senator DURBIN and myself.

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

HEALTH CARE REFORM

Mr. KAUFMAN. Madam President, the White House, the Congress, and the American people are engaged in a stark debate over our Nation's health care insurance system. A lot is at stake. We will make a choice in 2009, and that choice will determine the health care system we have in our Nation for a long time to come.

Fifteen years have passed since we last attempted to pass health care reform. What we do now will be consequential for decades to come. It will be a long time before the people of this country and their leaders will return to this complex and contentious issue.

So let us carefully review the potential plans. We have a plan being developed by the House of Representatives, we have a plan from the Senate HELP Committee, and a plan from the Finance Committee, we have the bipartisan Wyden-Bennett plan, and then we have a plan I am going to spend a lot of time talking about, and that is the PHS plan.

In listening to my colleagues speak on the floor of the Senate, on television, talk radio, in newspapers, and in private meetings, one thing is clear:

They think the plan we end up with will be the PHS plan. They think a combination of those who want no health care reform and those who like none of the proposed plans will combine to kill all other plans. So what is the PHS plan? Our present health care system.

Let's look at what will happen to average Americans if we keep our present health care system.

First, Americans' health care insurance costs will explode—and that is not an overstatement—explode. The average family in America can look forward to premium costs for their health insurance of more than $24,000 a year by 2016. That is an 83-percent increase over the cost in 2008. In my home State of Delaware, the costs will be even higher, with the average premium for family coverage approaching $29,000. At that amount, more than half of Delaware families would each have to spend half of their income on health insurance. This means families will be forced to either go without insurance or to buy less coverage and put their life savings at risk.

Second, personal bankruptcies for medical costs will soar. Today, bankruptcies involving medical bills account for more than 60 percent of U.S. personal bankruptcies, a rate 1½ times that of just 6 years ago. Going forward under PHS, we can expect more families in bankruptcy.

Third, insured Americans will keep paying a hidden tax to help pay for care for the uninsured. Under the PHS plan, doctors and hospitals will charge insurers even greater amounts to recoup the costs to provide services to the uninsured. Today, this hidden tax is estimated to be $1,100 per family per year. Under the PHS plan, it will most assuredly go up, raising the cost of health care for all Americans.

Fourth, Americans will continue to be denied coverage if they have preexisting conditions. Several weeks ago, I talked about four Delawareans who, because of preexisting conditions, could not find insurance coverage. Others who could get coverage have to pay exorbitant premiums to cover conditions such as high cholesterol, hypertension, diabetes, and cancer. Unfortunately, those who get sick may have their coverage dropped altogether. These problems, which threaten the security of all families, will continue under the PHS plan.

Fifth, for too many workers, health insurance portability will still be beyond reach. Too many Americans lose their insurance when they lose their jobs. Some can't afford their COBRA coverage, and others can't get another policy due to preexisting conditions. Even when they can find a new policy, they often discover they can no longer see the same doctor or use the same hospital.

As a result, too many Americans are stuck in their jobs, forgoing career advancement, just to keep their existing health plans.

Now let's look at what will happen to the American economy if we keep our present health care system.

First, our present health care system is bankrupting the Federal Government.

The biggest driving force behind our Federal deficit is the skyrocketing cost of Medicare and Medicaid. In 2008, government spending on Medicare and Medicaid took up more than one dollar out of every five in our Federal budget.

The more we spend on health care, the less we have for other investments—for education, for our veterans, and for job-creating technologies, to name a few.

To pay those higher Federal health care bills, we will have to pay more taxes or borrow more from China and other nations.

Controlling health care costs is the key to controlling our financial future. But under the PHS, health care costs continue to spiral out of control.

Second, health care spending will crowd out our national savings and lower our standard of living.

Health care cost as a percent of gross domestic product will grow from 18 percent today to 28 percent in the year 2030—and even 34 percent in 2040.

Those dollars out of every family's budget going to health care cannot go for housing, food, or transportation. American consumers, over two-thirds of our economy, will have fewer dollars left for any other priorities.

That means less spending at the mall, at our car dealers, and at the grocery store. Controlling health care costs will put money back in families' budgets and therefore back into the rest of our economy.

Third, the present health care system is killing U.S. economic competitiveness.

Today, U.S. manufacturing firms pay almost $5,000 per worker per year in health costs.

That's more than twice the average cost for firms located in our major trading partners such as Europe and Japan, where a firm pays less than $2,000 per worker each year.

In a global economy, our workers and corporations face competitors who can beat them on price every time, just because of our broken health care system. Controlling health care costs will help to level that playing field. In a fair fight, our workers and our businesses can win.

Finally, more firms will stop offering health insurance for their employees.

The PHS will continue the slow erosion of employer-sponsored insurance. This is especially true for small businesses.

In the 2008 Employer Health Benefits Survey conducted by the Kaiser Family Foundation, only 63 percent of companies of all sizes offered health insurance to their employees, down from 69 percent in 2000.

But these numbers are even lower when looking just at small businesses, with the National Small Business Association reporting that that only 38 percent of small businesses provided coverage last year, compared to 61 percent in 1993.

Under the PHS plan, this decline in coverage will continue, with an estimated 10 percent of small businesses eliminating coverage in the next year and nearly 20 percent in the next 3 to 5 years.

Under the PHS plan, that would mean an additional 13 million added to the rolls of the uninsured in the next 5 years.

So that is what America will get if we decide to choose the PHS plan. Again, that is the present health care system.

If we choose the PHS plan, consumers will pay higher and higher premiums, including the hidden tax to help pay for all of our fellow Americans without insurance.

We will continue to see a rise in personal bankruptcies due to high medical costs. Americans will continue to face insurance coverage rejections based on preexisting conditions or have insurers drop their policies once they do get sick. And they won't have portable insurance that they can take from job to job.

If we choose the PHS plan, health care spending will continue to threaten the bottom line of our Federal budget, eating away higher percentages of our GDP.

Our businesses will face more competitive disadvantages to their foreign competitors, paying more for health care insurance for their employees, or dropping it altogether.

The present health care system mistreats Americans as individuals and serves the country badly as a whole. We cannot continue in the present health care system.

I hope my colleagues will return in September committed to replacing our present health care system. I hope they will spend August searching for the best of the alternative plans that they want to support.

I hope we will turn our backs on the bankrupt present health care system and instead give the American people a health care system they can all be proud of—a health care system that will sustain them into the future.

We can do no less. They deserve no less.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee see is recognized.

Mr. ALEXANDER. Madam President, will the Chair let me know when I have 30 seconds remaining?

The ACTING PRESIDENT pro tempore. Yes.

HEALTH CARE REFORM

Mr. ALEXANDER. Madam President, we are concerned about the health care reform legislation that we have seen in the House and here in the Senate. It is headed in the wrong direction. The

Mayo Clinic has told us so. The Democratic Governors have told us so. The CBO has told us so.

We are hearing already from people around the country who fear that millions of people may lose their employer-based health insurance and may find themselves in a government-run plan, with new State taxes to pay for Medicaid.

My purpose is to point out that as we go back to our States in August, there is plenty of opportunity to go in a new direction. I hope when we come back, we will start over in that direction.

As an example yesterday, 12 Senators—7 Democrats and 5 Republicans—wrote an op-ed in the Washington Post about the Healthy Americans Act, the bill that is sponsored by Senator WYDEN, a Democrat, and Senator BENNETT, a Republican. I am a cosponsor among the 5 Republicans on that bill.

There are a number of things I agree with in the bill and some things with which I don't agree. I agree it is the right framework upon which we can build a bipartisan discussion. For example, the things I like about the bill and the reason I endorse the effort is that it has been scored as budget neutral. In other words, it doesn't add to the deficit, according to the CBO. It doesn't create a government-run plan to compete with private insurance plans. People would have choices among private plans just like most people have today. It replaces Medicaid and the Children's Health Insurance Program with private insurance plans. It doesn't replace all of Medicaid, but about 40 million of the people who are on Medicaid today, which is the largest government-run program we have, would have a choice to buy plans like the rest of us.

I think one of the worse things about the bills we are seeing is that it dumps low-income Americans into a government-run program that is failing—Medicaid—that 40 percent of the doctors will not see, and that none of us would want to join if we were forced to do so. This proposal takes away that problem. The Healthy Americans Act makes a fairer distribution of the government subsidies we already spend subsidizing health care by giving more Americans a chance to benefit from that.

It would give more Americans a chance to purchase the same kind of health insurance policy Federal employees and Members of Congress have. It provides a tax deduction for all American individuals and families to address the unfairness of our tax system. It includes an individual mandate. In other words, no free ride. We are all in this together. States that implement some sort of reforms against junk runaway lawsuits against doctors, which drive up the cost of malpractice insurance, will receive bonus payments.

It also includes some of the insurance market reforms about which we are hearing so much from our Democratic friends. What they don't tell you is we are all for those changes. These are the insurance reforms that say you will have a right to purchase insurance without a physical examination, and if you have a problem when you go in to get the insurance, you cannot be denied insurance for that reason. These are insurance reforms that virtually all Republican plans I have seen, and all the Democratic plans, have already in there. Those aren't the issue.

It provides a full subsidy to people living under 100 percent of the Federal poverty level to buy insurance, a private plan. This would mean roughly $5,000 for an individual and $12,000 for families to buy a plan. Americans earning between 100 to 400 percent of the Federal poverty level will receive subsidies on a sliding scale. After that, you pay for it yourself.

There are some points I don't like about the bill, but I endorse the framework, as well. I will mention those. I don't like the employer responsibility provisions. During negotiations, if this were the bill we were discussing, I would urge to change that. I don't like the fact that plans are required to be at the higher benefit level of the Federal employee plans. That is a level higher than most Federal employees have, and we can save dollars if we use the basic plan and use that money to provide higher subsidies to middle-income Americans to buy health insurance. I don't believe the subsidies in this bill are enough for many middle-income families. I have suggested a place to get some of that money.

We phase out the tax deduction at $62,500 a year, which may not be high enough to make this a fair proposal. I am concerned about the abortion provisions in the bill, although it doesn't provide government subsidies for abortion.

The point is, there is a framework that is headed in a different direction, and it has the support of 12 Senators.

I ask unanimous consent that the op-ed from the Washington Post be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. ALEXANDER. Madam President, I also ask unanimous consent that an article by Art Laffer in Wednesday's Wall Street Journal, which provides yet another reasonable option for providing health care opportunities for Americans without adding to the deficit, be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. ALEXANDER. Madam President, there is a way to do this if we want to head in a different direction.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Aug. 5, 2009]

HOW WE CAN ACHIEVE BIPARTISAN HEALTH REFORM

(By Ron Wyden and Robert F. Bennett)

We refuse to let partisanship kill health reform—and we are proof that it doesn't have to.

As 12 U.S. senators from both sides of the aisle who have widely varying philosophies, we offer a concrete demonstration that it is possible to find common ground and pass real health reform this year. The process has been rocky, and slower than many had hoped. But the reports of the death of bipartisan health reform have been greatly exaggerated. Now is the time to resuscitate it, before the best opportunity in years is wasted.

Democratic activists have long campaigned for universal coverage and quality benefits. Republican activists zero in on empowering individuals and bringing market forces to the health-care system. Our approach does both. In our discussions on the Healthy Americans Act, each side gave a bit on some of its visions of perfect health reform to achieve bipartisanship.

The Democrats among us accepted an end to the tax-free treatment of employer-sponsored health insurance; instead, everyone—not just those who currently get insurance through their employer—would get a generous standard deduction that they would use to buy insurance—and keep the excess if they buy a less expensive policy.

The Republicans agreed to require all individuals to have coverage and to provide subsidies where necessary to ensure that everyone can afford it. Most have agreed to require employers to contribute to the system and to pay workers wages equal to the amount the employer now contributes for health care. The Congressional Budget Office has reported that this framework is the only one thus far that bends the health-care cost curve down and makes it possible for the new system to pay for itself. It does this by creating a competitive market for health insurance in which individuals are empowered to choose the best values for their money and by cutting administrative costs and spreading risk across large groups of Americans.

First, we allow all Americans to have the same kind of choices available to us as members of Congress. Today, more than half of American workers who are lucky enough to have employer-provided insurance have no choice of coverage. Members of Congress who enroll their families in the Federal Employees Health Benefits Program often have more than 10 options. This means that if members of Congress aren't happy with their family's insurance plan in 2009 or insurers raise their rates, they can pick a better plan in 2010. Our plan would give the consumer the same leverage in the health-care marketplace by creating state-run insurance exchanges through which they can select plans, including their existing employer-sponsored plan.

Beyond giving Americans choices, our approach also ensures that all Americans will be able to keep that choice. We believe that at a time when millions of Americans are losing their jobs, members of Congress must be able to promise their constituents that "when you leave your job or your job leaves you, you can take your health care with you." Our approach ensures seamless portability.

Our point is not that our framework is the only way to reform the system or to reach consensus. But our effort has shown that it is possible to put politics aside and reach agreement on reforms that would improve the lives of all Americans. Insisting on any

particular fix is the enemy of good legislating. A package that will entirely please neither side, but on which both can agree, stands not only the strongest chance of passage but also the best chance of gaining acceptance from the American people.

We didn't undertake this effort because we thought it would be easy; in fact, we started working together because we knew it would be hard. Passing health reform is going to require that we take a stand against the status quo and be willing to challenge every interest group that is jealously guarding the advantages it has under the current system, because health reform isn't about protecting the current system or preserving the advantages of a few. We can't forget that we are working on life-and-death issues facing our constituents, our families, our friends and our neighbors.

It's time to stop trying to figure out what pollsters say the country wants to hear from us and focus on what the country needs from us. The American people can't afford for Congress to fail again.

EXHIBIT 2

[From the Wall Street Journal, Aug. 5, 2009]

HOW TO FIX THE HEALTH-CARE ''WEDGE''

(By Arthur B. Laffer)

President Barack Obama is correct when he says that ''soaring health-care costs make our current course unsustainable.'' Many Americans agree: 55% of respondents to a recent CNN poll think the U.S. health-care system needs a great deal of reform. Yet 70% of Americans are satisfied with their current health-care arrangements, and for good reason—they work.

Consumers are receiving quality medical care at little direct cost to themselves. This creates runaway costs that have to be addressed. But ill-advised reforms can make things much worse.

An effective cure begins with an accurate diagnosis, which is sorely lacking in most policy circles. The proposals currently on offer fail to address the fundamental driver of health-care costs: the health-care wedge.

The health-care wedge is an economic term that reflects the difference between what health-care costs the specific provider and what the patient actually pays. When health care is subsidized, no one should be surprised that people demand more of it and that the costs to produce it increase. Mr. Obama's health-care plan does nothing to address the gap between the price paid and the price received. Instead, it's like a negative tax: Costs rise and people demand more than they need.

To pay for the subsidy that the administration and Congress propose, revenues have to come from somewhere. The Obama team has come to the conclusion that we should tax small businesses, large employers and the rich. That won't work because the health-care recipients will lose their jobs as businesses can no longer afford their employees and the wealthy flee.

The bottom line is that when the government spends money on health care, the patient does not. The patient is then separated from the transaction in the sense that costs are no longer his concern. And when the patient doesn't care about costs, only those who want higher costs—like doctors and drug companies—care.

Thus, health-care reform should be based on policies that diminish the health-care wedge rather than increase it. Mr. Obama's reform principles—a public health-insurance option, mandated minimum coverage, mandated coverage of pre-existing conditions, and required purchase of health insurance—only increase the size of the wedge and thus health-care costs.

According to research I performed for the Texas Public Policy Foundation, a $1 trillion increase in federal government health subsidies will accelerate health-care inflation, lead to continued growth in health-care expenditures, and diminish our economic growth even further. Despite these costs, some 3o million people will remain uninsured.

Implementing Mr. Obama's reforms would literally be worse than doing nothing.

The president's camp is quick to claim that his critics have not offered a viable alternative and would prefer to do nothing. But that argument couldn't be further from the truth.

Rather than expanding the role of government in the health-care market, Congress should implement a patient-centered approach to health-care reform. A patient-centered approach focuses on the patient-doctor relationship and empowers the patient and the doctor to make effective and economical choices.

A patient-centered health-care reform begins with individual ownership of insurance policies and leverages Health Savings Accounts, a low-premium, high-deductible alternative to traditional insurance that includes a tax-advantaged savings account. It allows people to purchase insurance policies across state lines and reduces the number of mandated benefits insurers are required to cover. It reallocates the majority of Medicaid spending into a simple voucher for low-income individuals to purchase their own insurance. And it reduces the cost of medical procedures by reforming tort liability laws.

By empowering patients and doctors to manage health-care decisions, a patient-centered health-care reform will control costs, improve health outcomes, and improve the overall efficiency of the health-care system.

Congress needs to focus on reform that promotes what Americans want most: immediate, measurable ways to make health care more accessible and affordable without jeopardizing quality, individual choice, or personalized care.

Because Mr. Obama has incorrectly diagnosed the problems with our health-care system, any reform based on his priorities would worsen the current inefficiencies. Americans would pay even more for lower quality and less access to care. This doesn't sound like reform we can believe in.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, how much time do we have?

The ACTING PRESIDENT pro tempore. There is 6 minutes 12 seconds remaining.

CASH FOR CLUNKERS

Mr. DURBIN. Madam President, later today, we are going to take up the Cash for Clunkers Program. This is an idea whose time has come. When we passed this legislation a few weeks ago, I wasn't sure. I didn't know if this would work, if we put a dollar incentive in front of American buyers and said: If you will bring in an old car or truck and trade it in on a new car or truck that is more fuel efficient, would you consider it—I didn't know if they would. We are in a recession and people don't have a lot of money.

Well, they not only considered it, they made it a wild success. In a matter of just a few days, the $1 billion we set aside for the program led to dramatic increases in sales in auto showrooms in Illinois and all across the Nation. I got phone calls from dealers who said: Keep it coming. Folks are finally coming into our showrooms and buying cars.

The good news is it is not only activity that is clearing the inventory in these dealerships, it also means we have more jobs. As we have more of these cars being purchased, there is more demand to rebuild that inventory at the auto dealership, and we put auto workers back to work. Also, the good news is people are buying more fuel-efficient vehicles. Eighty-three percent of the vehicles being traded in are old trucks that are not fuel efficient. Most people—the majority of them—are buying fuel-efficient cars, and that is a good change. It means there will be less fuel use, less dependence on foreign oil, and less pollution. For those who buy it, it will be a car they can operate more cheaply than the one they traded in.

We have a chance to extend this program today. It may be our last chance. A lot of amendments will be offered. Some may be good-faith amendments to improve the bill, and I fear some may be mischievous. Here is the reality. Any amendment adopted today means this program will be stopped in its tracks, and we will have to wait for the House to return in September. So for the next 4, 5, 6 weeks, nothing would happen.

Let's not lose the momentum in the Cash for Clunkers Program. This program is helping to put life back into our economy, save and create jobs, and get our automobile sector moving forward again. That is something we desperately need to come out of the recession—creating jobs and getting back on our feet and be strong again. The Cash for Clunkers Program has been a success. Let's continue it.

HEALTH CARE

The second issue I have relates to health care. I heard my colleague from Tennessee come forward and suggest that he is working on an alternative to health care reform. I salute him for that, and I hope he will continue that effort. I also salute the three Republican Senators who have met for weeks, if not months, trying to hammer out the differences in health care reform. It is a constructive, positive dialog. I am sure I would not agree with everything they have come to agreement on, but that is not what this is about. It doesn't have to be a bill that is perfect in my eyes; it has to be a bill that is reasonable, that will bring down the cost of health care.

I know what happened in Illinois. In 1997, health insurance premiums through employers averaged $5,462. Just 9 years later, that number was $11,781. If we do nothing, by 2016, it will more than double, to $25,409.

Those who come to the floor and to town meetings and say, ''Don't touch it; all you can do is make a mess of it,''

ignore the obvious. The current health care system is unsustainable for families and for small businesses. Fewer and fewer businesses are offering health insurance protection. More people are finding themselves without health insurance protection.

In fact, in Illinois 15 percent of the population has no insurance at all. During the course of any given year, one out of three Illinoisans have no health insurance coverage at least some time during that year. That is unacceptable. People without health insurance coverage are one diagnosis or one accident away from bankruptcy. We know more and more people are going into bankruptcy court because of health care and medical bills they cannot pay. For those who stand here and say ''Don't touch it; leave it alone,'' it is unsustainable. It is a system headed toward disaster.

Who wants to keep the current health care system? It is the people who are making the most money in the system, the health insurance companies. They have been profitable, when many other parts of the economy have not. They are now sponsoring activities and advertisements and all sorts of things at town meetings to try to create resistance to change in health care. That is not good. It is not a constructive dialog. To think that these town meetings that are supposed to take place for a healthy, honest dialog back home have now turned into political theater. Some groups have Web sites that instruct people about how to disrupt a town meeting and embarrass a Senator or Congressman. I know that when I go to town meetings, people may disagree and be emotional, and that is OK. To think they have a coordinated effort to disrupt a town meeting. Who wants that? That is not constructive.

Let's move forward with an honest, constructive, bipartisan dialog. Three Republicans are doing that now. If we do that, we can reach a bipartisan compromise that I and the President would like to see by September. Let us come back with resolve in September to make sure there is real health care reform that brings stability to the costs that businesses and Americans pay, stability to coverage so you don't lose your health insurance because of a preexisting condition, changing a job, caps and limits on your policy, with quality access to preventive care, wellness care, and the quality care that every American deserves.

We can do that with patient-centered health insurance reform, and we can get it done in a bipartisan fashion in September when we return.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF SONIA SOTOMAYOR TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of Sonia Sotomayor, of New York, to be an Associate Justice of the Supreme Court of the United States.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 2 p.m. will be equally divided in 1-hour alternating blocks of time, with the Republicans controlling the first hour.

The Senator from South Carolina.

Mr. DEMINT. Madam President, I do want to talk about the President's nominee to the Supreme Court, but first I wish to give a couple of comments in response to the Senator about health care because if the record be known to Americans, the preponderance of health reform legislation that has been presented over the last 5 years in the Senate has come from Republicans. The Democrats have consistently blocked any reform that would make health insurance more affordable and available to Americans. Their goal appears to be not patient-centered care but government-controlled care.

If we look back a few years, the President, along with all the Democrats, voted against interstate competition among insurance companies. It is hard to say they are not on the side of insurance companies when they vote to prevent a national market, a national competitive market that people all over the country could buy policies that are more affordable and perhaps match their needs much better than the ones they can get in their own States.

Today Americans can only buy health insurance in the States where they live. That means a few insurance companies can dominate the market. This is something we have tried to change, we have introduced, and the President has voted against it.

We have also proposed tax fairness for Americans who do not get their health insurance at work. The other side seldom discusses the fact that when you get your insurance at work, you get pretty big tax breaks. The companies that provide that health insurance do not have to pay taxes on it. They can deduct it. It is a business expense. And the employees do not have to pay income tax on the benefits. It is an equivalent benefit over $3,000.

The bills we Republicans have introduced will give health care vouchers to every American. Every family would get $5,000 a year to buy health insurance if they do not get their health insurance at work. Every individual would get $2,000.

In addition, there would be some lawsuit abuse reform and some block grants to States to make sure people who are uninsurable, who have preexisting conditions, can buy affordable insurance.

The Heritage Foundation says one of the Republican plans would have 22 million Americans insured within 5 years. They are plans that work. But, unfortunately, the other side will not even discuss plans that do not have more government control involved with them.

What we can do is make what is working work better. We do not need to replace it with what is not working. One of the reasons health insurance is more expensive today—a third more expensive—is that the government programs of Medicare and Medicaid do not pay their fair share, and those costs are shifted on to employers and individuals who have private insurance.

We do not need to expand the part that is broken in health care. We certainly do not need to expand a cash-for-clunkers type of health care system for America.

I am here today to talk about the President's nominee to the Supreme Court, Sonia Sotomayor. I commend my Republican colleagues, particularly Senator JEFF SESSIONS, for conducting a very respectful and civil hearing process for the nominee. This is something we have not seen in a number of years here. They were respectful toward her. Even those who disagree with her judicial philosophy showed courtesy and respect during the hearings, and it is something I very much appreciate.

Our goal through this process has not been to block this nomination and to stop her from going to the Supreme Court. The votes have never been there to do that. What we have been trying to show is a pattern by the Obama administration and the Democratic majority of moving toward more and more government control in all areas of our lives. We see it in the stimulus plan, that instead of leaving money in the private sector, we take it away and spend it on programs such as turtle tunnels and other kinds of wasteful spending all across the country—government spending.

We are trying to manage the private economy. We see it in cash for clunkers where we create an economic earmark for one sliver of our economy. At the same time, in this health care legislation, we are talking about adding taxes to the small businesses that create 70 percent of the jobs in this country.

We are benefiting a few at the expense of many. This is economic central planning. It is a concept that has failed throughout history. Yet we are trying again.

What we see in the President's nominee to the Supreme Court is this belief that our Constitution is inadequate, that we need to have judges on our courts, Justices on the Supreme Court, who add to it.

The President has said that our Constitution is a charter of negative liberties. It tells the government what it cannot do, but it does not tell us what we have to do. The whole point of the Constitution is to limit what we can do. But the President considers it inadequate, and he is nominating people to the courts who will be activists, who will expand what the Federal Government does and make arbitrary decisions rather than those based on the Constitution.

Unfortunately, I do rise today in opposition to the confirmation of Judge Sonia Sotomayor to the U.S. Supreme Court. I met with her personally, and I watched the hearings. I believe she is a very smart and gracious person with an inspiring personal story. But I also found her evasive and contradictory in her answers.

On several issues ranging from judicial temperament to her infamous ''wise Latina'' speeches, Judge Sotomayor experienced what we call confirmation conversion on many of her issues and simply walked away from a lot of her past statements and positions.

Now seeing her willingness to tell us what we want to hear, neither her testimony nor her long record on the judicial bench can give the American people any confidence that she will rule according to the clear language and intent of the Constitution.

Let me talk for a second about the Constitution versus precedent. I am very concerned with Judge Sotomayor's repeated efforts to deflect questions by stating she relied on precedent to guide her decisions. I understand circuit court judges are guided and even bound by Supreme Court precedent, but precedent is not the same thing as the Constitution, particularly on the Supreme Court. A judicial confirmation process that puts the constitutional interpretation outside the bounds of discussion is a waste of time.

On issue after issue during her hearings, Judge Sotomayor, rather than giving her own opinion, simply offered the opinions of many other judges. We have no idea what she thinks. In one sense, this is fitting. The Congress routinely passes legislation that none of us reads or understands. So perhaps it is consistent for us to nominate and confirm a Justice when we do not understand what she actually believes.

Judge Sotomayor may be very learned in constitutional law, but we rarely heard her actually mention the Constitution itself. This is a big problem for our judiciary and our system of checks and balances.

In 1825, Thomas Jefferson said that the Federal judiciary was at first considered as the most harmless and helpless of all its organs. But it has proved that the power of declaring what is law has allowed it to slyly, and without alarm, sap away the foundations of the Constitution.

What concerns me, as Jefferson observed, is that there are many confusing and contradictory precedents that can be used by judges to justify whatever decision they want to make. Without the Constitution as the fixed standard, court decisions become very arbitrary, and we are ruled by the opinions of Justices rather than the rule of law.

When the law is unmoored from the Constitution, it becomes like the old schoolroom game of telephone. Some may remember it. One student says something to her neighbor and on and on across the room until the secret reaches the other side of the class. What do you know—the final message no longer even resembles the original. That is how precedent has worked in our court system. Every time the Supreme Court bases a decision on a precedent rather than on the underlying Constitution, the original intent of the Founders is lost and becomes distorted.

There is nothing stopping a determined judge from finding a precedent that suits whatever they want to decide in any case before the Court. Nor apparently is there anything that will stop Judge Sotomayor from unmooring her decisions, not only from the Constitution but from precedent itself, as she did in the Ricci racial discrimination case and with regard to the fundamental right of citizens to own firearms.

In the Ricci case, she claimed she was following precedent, but her own colleagues on the circuit court refuted her claim.

On the second amendment, she disregarded the Supreme Court's Heller decision and still refuses to acknowledge the right to bear arms for every American, that it is a fundamental right.

Decisions such as these, understandably, undermine the credibility of our judicial system. Americans are led to suspect that some judges are more interested in their particular outcomes rather than objectivity.

Let me conclude. Judge Sotomayor is obviously a talented jurist, but I believe her when she says that she chooses her words very carefully. And her words, both in her testimony and throughout her career, undermine her claims to objective and impartial justice.

I realize my view is the minority view here, and if Judge Sotomayor is confirmed, she will have my best wishes on a long and distinguished career. Given the available evidence, however, I cannot support her confirmation, nor the judicial philosophy that she will carry with her to the Supreme Court.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Madam President, on Tuesday I explained some of the reasons I cannot support the nomination of Judge Sonia Sotomayor to replace Justice David Souter, and I will mention a few others here today. These are important points. Her record simply creates too many conflicts with principles about the judiciary in which I deeply believe. I wish President Obama had chosen a Hispanic nominee whom all Senators could support.

During the debate this week, many of my Democratic friends have spent time reading Judge Sotomayor's resume rather than reviewing her record. Nearly every speaker on the other side has repeated the talking point that she has more Federal judicial experience than any Supreme Court nominee in a century. I believe she does, and I respect her for it. But Justice Samuel Alito had only 1 less year of Federal judicial experience and actually had 5 more years on the U.S. court of appeals when he was nominated. He, too, had been a prosecutor and he, too, had received a unanimous ''well qualified'' rating from the ABA. Yet 19 current Democratic Senators voted to filibuster his nomination, including the current President, and 35 voted against confirmation.

Other Senators emphasize the importance of appointing someone with Judge Sotomayor's inspiring life story and ethnic heritage. Once again, I do not disagree. She has an inspiring life story and a great ethnic heritage. Yet she is being treated with far more dignity and respect than was Miguel Estrada, a highly qualified Hispanic nominee with an inspiring life story, who everybody knows is one of the best attorneys in the country. The Senate, for example, will actually vote on Judge Sotomayor's nomination today. In 2003, for the first time in American history, this body was prevented from voting at all on the Estrada nomination, even though he had majority support. Senators and grassroots groups, including Hispanic organizations that today say a good resume, rich life story, and ethnic heritage make a compelling confirmation case for Judge Sotomayor, opposed even holding an up-or-down vote for Mr. Estrada. The treatment of Miguel Estrada was unfair and disgraceful toward the nominee and damaging to the traditions and practice of this body.

My Democratic colleagues want people to believe the concerns about the Sotomayor nomination are limited to one speech and one case. Some of them have said as much. At the same time, they say our review should be limited to only certain parts of the nominee's record. As I have done with past nominees, however, I examined Judge Sotomayor's entire record for insight into her judicial philosophy.

In addition to the controversial speeches I discussed on Tuesday, Judge Sotomayor gave a speech at Suffolk University Law School which was later published in that school's law review.

She embraced the idea that the law is indefinite, impermanent, and experimental. She rejected what she called ''the public myth that law can be certain and stable.'' She said that judges may, in their decisions, develop novel approaches and legal frameworks that push the law in new directions.

Judge Sotomayor's speeches and articles, then, present something of a perfect judicial storm in which her views of judging meet her views of the law. Combine partiality and subjectivity in judging with uncertainty and instability in the law, and the result is an activist judicial philosophy that I cannot support and that the American people reject.

My Democratic colleagues will no doubt quickly say Judge Sotomayor's cases do not reflect that judicial philosophy. But remember that appeals court judges are bound by Supreme Court precedent. On the Supreme Court, Justice Sotomayor will help fashion the precedents that today bind Judge Sotomayor. That makes the rest of her views—expressed, I might add, while she has been a sitting judge—much more relevant to her future on the Supreme Court than to her current position on the appeals court.

Nonetheless, Judge Sotomayor has made plenty of troubling decisions on the appeals court. On Tuesday, for example, I discussed the case of Didden v. Village of Port Chester, in which Judge Sotomayor refused to give a man his day in court whose property was taken and given to a developer. She came to the bizarre conclusion that Mr. Didden should have sued before his property was even taken.

In Kelo v. City of New London, the Supreme Court held that general economic development can constitute the public use that the fifth amendment says justifies the taking of private property.

We hear a lot these days that judges should appreciate how their decisions should affect people. When the Court in Kelo greatly expanded the government's power to take private property, the San Francisco Chronicle no less said that the decision might turn the American dream of home ownership on its head. And one Washington Post headline after the decision read: ''Court Ruling Leaves Poor at Greatest Risk.'' This decision was devastating not only for the right to private property in general but for individual homeowners in particular.

The decision in Kelo was issued after the briefing and argument in Didden but before Judge Sotomayor had issued her decision. Even though Kelo was a hallmark—or should I say landmark—decision that dramatically changed the law of takings, she did not ask for a rebriefing or a reargument. Instead, it took her more than a year to issue a cursory, four-paragraph opinion that not only made it easier for the government to take property but also severely limited the ability of property owners to challenge the taking of their property in court.

Other Senators and I have already discussed Judge Sotomayor's troubling decisions regarding the second amendment right to keep and bear arms. She has applied the wrong legal standard to conclude that the second amendment does not keep State and local government from restricting the right to bear arms, and she has gratuitously held that the right to bear arms is so insignificant that virtually any reason is sufficient to justify a weapons restriction. No Federal judge in America has expressed a more narrow, cramped, and limited view of the right to bear arms.

My friends on the other side of the aisle have made some creative attempts to downplay these troubling decisions. Perhaps the most curious is the claim that the second amendment right to keep and bear arms was created by the Supreme Court. On the other hand, I am baffled why this should bother those who believe in a flexible and shape-shifting Constitution. The Supreme Court, after all, makes up rights all the time—the right to abortion comes immediately to mind—without a peep from most of my Democratic friends on the other side of the aisle.

But the Senator who offered this strange theory should simply read the Constitution. The right to keep and bear arms is right there, right in the Constitution, in black and white. Perhaps he is instead referring to the Supreme Court's recognition last year that the right to bear arms is an individual rather than a collective right. Perhaps that is why he believes the Supreme Court created these rights. But the second amendment said that the right to bear arms is the right of ''the people.''

The fourth amendment says the same thing about the right against unreasonable searches and seizures. It, too, is a right ''of the people.'' Does any Senator doubt that the fourth amendment protects an individual right? Does a Senator who believes that the Supreme Court made up the individual right to bear arms believe that the Supreme Court made up the individual right to be free from unreasonable government searches?

When I chaired the Judiciary Subcommittee on the Constitution in 1982, we published a report on the second amendment right to keep and bear arms. It thoroughly examined the long and rich history of this right, which predates the Constitution itself. Thus, anybody can see why I am very concerned about this. We went to the bother of really writing about it back in 1982.

As the Supreme Court has recognized, it was a fundamental individual right of Englishmen at the time of America's founding, which the second amendment merely codified. Justice Joseph Story, in his classic ''Commentaries on the Constitution,'' called this right ''the palladium of the liberties of the republic.'' Our report showed definitively that the right to bear arms is indeed both fundamental and individual. The Supreme Court may have taken a long time to recognize this constitutional fact, but it made up nothing in doing so.

Madam President, I commend to my colleagues the subcommittee report to which I have referred.

Madam President, finally, let me describe one other matter which arose during the hearing which I found very troubling. And before I say that, 8 of the 10 cases of Judge Sotomayor, heard by the Supreme Court, were reversed. On the ninth one, she was seriously criticized for her approach to the law, and that was a 5-to-4 decision. These are matters that bother a lot of people. I have mentioned a whole raft of other cases and a whole raft of other issues in my prior remarks here, so I will refer back to those remarks.

Prior to her judicial service, Judge Sotomayor was closely associated with the Puerto Rican Legal Defense and Education Fund, a respected civil rights organization. From 1980 to 1992, Judge Sotomayor held at least 11 different leadership positions with the fund, including serving as a member of both its board of directors and executive committee and as both a member and chairman of its litigation committee. In a 1992 profile, the New York Times described Judge Sotomayor as a top policymaker with the fund. Other articles and profiles in the Times and Associated Press say that she met frequently with the legal staff, reviewed the status of pending cases and briefed the board about those cases, and was an involved and ardent supporter of the fund's legal efforts. These descriptions relied upon and quoted lawyers with whom she worked at the fund. Minutes from the fund's litigation committee specifically describe Judge Sotomayor reviewing the fund's litigation strategy and cases.

At the hearing, I asked Judge Sotomayor whether she had been aware of the friend-of-the-court briefs—the amicus curiae briefs—that the fund filed in several high-profile Supreme Court abortion cases. I just wanted to know what the truth was. I asked her about that because those briefs made arguments that can only be described as extreme, even by some who are in the pro-abortion movement. The fund, for example, compared the previous refusal to pay for abortions with taxpayer Medicaid funds to oppression of Blacks symbolized by the Supreme Court's infamous Dred Scott decision. The fund opposed any and all abortion restrictions, including laws requiring that parents be informed before their young daughters have an abortion. The fund even argued that the first amendment right to freely exercise religion somehow undermines parental notification laws.

When I asked Judge Sotomayor about these briefs and arguments, I made absolutely clear in my prefaced remarks that I was asking only about whether she knew about and agreed

with them at the time the briefs were filed. I was not asking her even about her current views, let alone any position or approach she might take in the future. Judge Sotomayor told me that at the time she did not know the fund was filing those briefs or making those arguments. At times, she used what appeared to be the prepared talking point that she had not ''reviewed the briefs.''

But in answering my question, she went much further than that and said:

> Obviously, [the Fund] was involved in litigation, so I knew generally they were filing briefs. But I wouldn't know until after the fact that the brief was actually filed.

To be clear, Judge Sotomayor said she never knew until after a brief had already been filed what arguments were made in the brief or even that it had been filed at all. I was shocked at this response and frankly found this claim very difficult to believe. How can a leader at a legal defense fund, who is actively working with the legal staff, supervising the staff, directing some of the years, briefing a board about pending cases, and an involved supporter of the fund's legal efforts, be completely out of the loop about the briefs it has filed and the arguments the fund is making? Did her discussions with the legal team about the pending cases skip these high-profile Supreme Court cases? I have to tell you, I doubt it. Did she brief the board about everything but these abortion briefs? I doubt it.

The six abortion cases in which the Fund filed briefs were among the most visible cases on the Supreme Court docket. The 1989 case of Webster v. Reproductive Health Services, for example, attracted a record 78 different friend-of-the-court briefs, evidence that it was one of the most anticipated cases in decades. Virtually everyone in the public interest legal world, especially at civil rights groups, had it at the top of their watch list. And yet Judge Sotomayor would have us believe that, despite her leadership positions and active involvement with the Fund's cases and legal strategy, she was completely unaware that the Fund filed a brief in Webster until after the fact. In other words, she knew no more than an outsider reading the newspaper about the Fund's briefs and arguments in high-profile Supreme Court cases about hot-button social issues. I find that simply implausible.

When I met with Hispanic leaders and groups during the confirmation process, their common message was that Senators should treat Judge Sotomayor seriously and respectfully. I believe we have done that. But they also insisted that our confirmation decision should be based on the merits, not on race. It was disturbing to hear, therefore, that some of these same groups appeared yesterday with the chairman of the Democratic Senatorial Campaign Committee warning about political repercussions of voting against a Hispanic nominee. I ask unanimous consent that a column published yesterday in Politico by former Florida House Speaker Marco Rubio addressing this issue be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Let me once again return to where I began. One of America's oldest state constitutions opens by asserting what it identifies as essential and unquestionable rights and principles. In their charter, the people of Rhode Island State:

> In the words of the Father of his Country, we declare that the basis of our political system is the right of the people to make and alter their constitutions of government; but that the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all.
>
> The Constitution belongs to the people. The people established it, and only the people can change it. This essential and unquestionable principle would be a farce if the people could change the words, but judges could change the meaning of those words. Judges would still control the Constitution, and their oath to support and defend it would really be an oath to support and defend themselves. America needs judges who are guided and controlled not by subjective empathy that they find inside themselves, but by objective law that they find outside themselves.

I take a generous approach to the confirmation process. I believe that the Senate owes some deference to a President's qualified nominees and that qualifications for judicial service include not only legal experience but, more importantly, judicial philosophy. A judicial nominee must understand and be committed to the proper role and power of judges in our system of government. Evidence for a nominee's judicial philosophy must come from her entire record.

I hope that on the Supreme Court, Judge Sotomayor will take an objective, modest, and restrained approach to interpreting and applying written law. I hope that she actively defends her impartiality against subjective influences such as personal sympathies and prejudices. I hope that she sees the Constitution, both its words and its meaning, as something that she must follow rather than something she can change at will.

I hope she will do all of that. I hope she proves me wrong in my negative vote against her.

Because the record does not convince me she holds those views today, I cannot support her appointment to the Supreme Court.

Finally, I refer those who are interested back to my remarks on Tuesday because I covered a number of other cases there that are equally important, but I believe, since I covered them there, I did not have to go through them here.

I am very concerned about this nomination. I feel very bad that I have to vote negatively. It is not what I wanted to do when this process started, but I believe I am doing the honorable and right thing, even though I feel bad about it. As I have said, I like Judge Sotomayor, I like her family, I like her life story. I am hoping she will listen to some of the things we have said on the floor, and I do wish her the best once she is confirmed.

I yield the floor.

EXHIBIT 1

[From Politico, Aug. 5, 2009]

NOT ANTI-HISPANIC TO OPPOSE SOTOMAYOR

(By Marco Rubio)

Sonia Sotomayor's nomination to the Supreme Court was a truly historic moment in our nation's history. As an accomplished jurist who rose from humble roots, she is an inspiration to all who share her Hispanic heritage and all Americans who believe hard work is key to success.

Since that moment, however, I have considered it vital to ensure that the historic nature of her nomination did not interfere with the Senate's constitutional duty of evaluating it and having a proper debate about the judiciary's proper function in America. After all, the lifetime nature of her appointment brandishes the post with enduring influence on the nation's affairs long after the nominating president vacates office. Whereas voters hold senators accountable every six years, this is the nation's only chance to evaluate Sotomayor before sending her to the Supreme Court for life.

During the recent Judiciary Committee hearings, it became clear that I could not in good conscience support Sotomayor's confirmation and would vote against it if I were in the Senate today. I reached this conclusion on the basis of a fair and thorough analysis.

As a whole, Sotomayor's record reflects a view that judges can and should inject personal experiences and biases into what should be the objective interpretation and application of the law. While her comments about the ''better conclusions'' a ''wise Latina woman'' would bring to the bench are universally known, I have more specific concerns about her case history and testimony regarding the Second Amendment at the state level, eminent domain takings and the so-called constitutional right to privacy that resulted in the Roe v. Wade decision. Together, these and other cases point to a nominee who would bring an activist approach to the highest court in the land.

Some have said my opposition to Sotomayor's confirmation and that of Republican senators would incense Hispanic-American voters. Right on cue, many are now attempting to brand Republicans as anti-Hispanic. It should be clear, however, that our opposition to her judicial philosophy is in no way a wholesale opposition to Hispanics.

I believe the greatest disservice we could offer the Hispanic community and the nation as a whole is to avoid a serious, principled discussion about the role of the judiciary. I reject the notion that judges should be representative of their sex, race or class. For these reasons, the suggestion that senators who have fundamental concerns about Sotomayor's judicial philosophy should not dare oppose her for fear of being branded anti-Hispanic is disappointing.

The true measure of our nation's progress on issues of race and ethnicity is the freedom of people of conscience to disagree with one another based on sound philosophical reasoning, without fear of being negatively branded because the person they oppose is of a different background or skin color.

Reasonable people can disagree, and, in fact, many do in this case. This competition

of ideas is healthy when properly centered on policy and philosophy, as it has been. The debate is only poisoned when the color of one's skin becomes a political football. Unfortunately, some of Sotomayor's supporters have injected race into the discussion, indicating that a vote against her is a vote against Hispanics, even though I have not heard one utterance from any senator opposing her that reflects a hostility toward Sotomayor personally or to her roots.

In evaluating judicial nominees, what matters most is determining what kind of judges they will be. And nominees who share Sotomayor's view that their role is to make law rather than interpret it are individuals I cannot support and would urge others not to, as well.

As Florida's first Hispanic speaker of the House, I too blazed a trail that has been a great source of pride for my community, particularly for those of my parents' and grandparents' generations. My experience, like Sotomayor's, is a testament to the boundless promise that exists in our great land, where the son of a bartender and housekeeper who came from Cuba without even a grasp of the English language could rise to such heights.

Those of us of Hispanic descent don't expect special treatment, only the same treatment and same opportunities afforded to all Americans. I believe it would be wrong to apply a higher or lower standard to Sotomayor than the one applied to other Supreme Court nominees.

In the final analysis, we are not worthy of Hispanics' trust or the support of any other Americans if we abandon our principles or cease articulating our philosophical disagreements on the role of the judiciary. I would rather lose an election than diminish the rights afforded by the Constitution. By consenting to a judge whose record demonstrates an inclination to set policy from the bench, we would be undermining our governing document.

Mr. HATCH. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Madam President, there are a number of letters from people and groups who have given great thought to this nomination and who have written to oppose it.

I ask unanimous consent to have some of these letters printed in the RECORD.

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

FIDELIS,
Chicago, IL, July 10, 2009.

Re Judge Sonia Sotomayor and abortion.

Hon. PATRICK J. LEAHY,
Hon. JEFF SESSIONS,
Hon. DIANNE FEINSTEIN,
Hon. JOHN CORNYN,
Hon. TOM COBURN,
Hon. RON WYDEN,
Hon. RUSSELL D. FEINGOLD,
Hon. SHELDON WHITEHOUSE,
Hon. BENJAMIN L. CARDIN,
Hon. AMY KLOBUCHAR,
Hon. EDWARD E. KAUFMAN,
Hon. RICHARD J. DURBIN,
Hon. CHARLES E. GRASSLEY,
Hon. LINDSEY GRAHAM,
Hon. HERB KOHL,
Hon. ORRIN G. HATCH,
Hon. JON KYL,
Hon. ARLEN SPECTER,
Hon. CHARLES E. SCHUMER,
U.S. Senate
Washington, DC.

DEAR SENATOR: During the confirmation hearing of Judge Sonia Sotomayor, I urge you on behalf of thousands of Fidelis members and the American public to carefully question her about her judicial philosophy and her approach to abortion-related issues. During the period leading up to her hearing, Sotomayor has repeatedly made apparent her view that a judge's personal feelings and experiences should play a prominent role in her application of the law.

Our organization is concerned that this approach will lead Judge Sotomayor, if she is confirmed to the Supreme Court, to favor an interpretation of the Constitution that is even more protective of abortion rights than Roe v. Wade. Such a drastic reinterpretation of the Constitution, which would establish abortion as a fundamental right, would frustrate the will of the vast majority of Americans who oppose an unlimited right to abortion and undermine the legitimacy of the Constitution.

Judge Sotomayor offered a glimpse of her disposition toward these important issues in her recent conversation with Senator Jim DeMint during which she expressed that she had never thought about whether an unborn child has constitutional rights. This statement indicates that Judge Sotomayor does not share the values of a majority of Americans and that her decisions on the Supreme Court will fail to protect the rights of unborn children.

Although Judge Sotomayor has never directly addressed abortion-related questions while on the bench, her association with the Puerto Rican Legal Defense and Education Fund (PRLDEF), a radical organization that has supported an unlimited right to abortion, indicates that she shares the organization's views on these issues. Judge Sotomayor served on the PRLDEF's board of directors between 1980 and 1992. During this period, the PRLDEF filed several amicus briefs in prominent abortion cases.

These briefs repeatedly emphasized that the PRLDEF opposes any effort to limit the rights recognized by Roe v. Wade, arguing that abortion is a fundamental right and that the Constitution requires strict scrutiny of limitations on the ability to obtain an abortion. We believe that, if Judge Sotomayor is given a position on the Supreme Court, her decisions when confronted with these important questions will align with the radical views expressed in PRLDEF's amicus briefs.

In fact, these briefs indicate that Judge Sotomayor may favor even more expansive abortion rights than Justice Souter, whose support for abortion has been qualified by his willingness to permit reasonable state and federal regulations. Souter has indicated his approach by supporting regulations of federal funding for abortion counseling in Rust v. Sullivan and by voting to uphold state consent laws in Planned Parenthood v. Casey. The PRLDEF's briefs supported striking down both of these regulations as unconstitutional.

We ask that you please carefully question Judge Sotomayor during her confirmation hearing about these issues, which implicate important values shared by a majority of the American public and threaten to diminish the legitimacy of the Constitution.

Sincerely,

BRIAN BURCH,
President.

NATIONAL RIFLE ASSOCIATION OF AMERICA, INSTITUTE FOR LEGISLATIVE ACTION,
Fairfax, VA, July 7, 2009.

Hon. PATRICK J. LEAHY,
Chairman, U.S. Senate Committee on the Judiciary, Washington, DC.
Hon. JEFF SESSIONS,
Ranking Member, U.S. Senate Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: I am writing to express the National Rifle Association's very serious concerns about the nomination of Judge Sonia Sotomayor to the Supreme Court of the United States.

We are particularly dismayed about the U.S. Court of Appeals for the Second Circuit's recent decision in the case of Maloney v. Cuomo, which involved the application of the Second Amendment as a limit on state law, via incorporation of the Second Amendment through the Fourteenth Amendment's Due Process Clause. Judge Sotomayor was on the panel that decided this case in a brief—and in our opinion, clearly incorrect—per curiam opinion.

The Maloney panel claimed that "it is settled law . . . that the Second Amendment applies only to limitations the federal government seeks to impose on this right." It based this ruling on the 1886 case of Presser v. Illinois, decided long before the development of the Supreme Court's modern incorporation doctrine. But as the Court made clear last year in District of Columbia v. Heller, post-Civil War cases such as Presser "did not engage in the sort of Fourteenth Amendment inquiry required by our later cases."

Further, Presser (along with United States v. Cruikshank) only stands for the concept that the guarantees in the Bill of Rights do not apply directly to the States. As we have seen throughout the Supreme Court's Twentieth Century jurisprudence, most of the Bill of Rights has been incorporated against the States through the Fourteenth Amendment's Due Process Clause. Thus, the failure of the Maloney panel to engage in a proper due process analysis of the Second Amendment is extremely troubling, to say the least.

The Second Circuit's decision (as well as the Seventh Circuit's similarly flawed reasoning in Nat'l Rifle Ass'n of Am., Inc. v. City of Chicago) is at odds with the Ninth Circuit's decision in Nordyke v. King, which did engage in a full Fourteenth Amendment analysis (again, as required by the Supreme Court in Heller). The Ninth Circuit held that while the Second Amendment does not apply to the states directly or through the Privileges or Immunities Clause, modern Fourteenth Amendment cases do require its incorporation through the Due Process Clause. This stark circuit split makes it highly likely that the Supreme Court will take up one or more of these cases in the immediate future, perhaps as soon as next term.

In addition, Judge Sotomayor was a member of the panel in the case of United States v. Sanchez-Villar, where (in a summary opinion) the Second Circuit dismissed a Second Amendment challenge to New York State's pistol licensing law. That panel, in a terse footnote, cited a previous Second Circuit case to claim that "the right to possess a gun is clearly not a fundamental right." Since the precedent cited for that point is no longer valid in the wake of Heller, Judge Sotomayor should be asked whether she would take the same position today.

The cases in which Judge Sotomayor has participated have been dismissive of the Second Amendment and have troubling implications for future cases that are certain to come before the Court. Therefore, we believe that America's eighty million gun owners

have good reason to worry about her views. We look forward to a full airing of her past decisions and judicial philosophy at the upcoming committee hearings, and urge you and all committee members to engage in the most serious questioning possible on these critical issues.

Out of respect for the confirmation process, the NRA has not announced an official position on Judge Sotomayor's confirmation. However, should her answers regarding the Second Amendment at the upcoming hearings be hostile or evasive, we will have no choice but to oppose her nomination to the Court.

Finally, we would caution you against lending any credence to the endorsement of Judge Sotomayor's nomination by organizations that falsely claim to represent gun owners, while promoting an anti-gun agenda. These front groups' actions give them no credibility to speak on this nomination.

Thank you for your attention to our concerns. Should you have any questions or wish to discuss further, please do not hesitate to call on me personally.

Sincerely,

CHRIS W. COX,
Executive Director.

JULY 7, 2009.

DEAR SENATORS: As Americans who have dedicated themselves to protecting the Second Amendment right of U.S. citizens to keep and bear arms, we urge you not to confirm Judge Sonia Sotomayor as the next associate justice of the United States Supreme Court.

It is extremely important that a Supreme Court justice understand and appreciate the origin and meaning of the Second Amendment, a constitutional guarantee permanently enshrined in the Bill of Rights. Judge Sotomayor's record on the Second Amendment causes us grave concern over her treatment of this enumerated constitutional right.

Last year, the Supreme Court decided the landmark case District of Columbia v. Heller, holding that the Second Amendment guarantees to all law-abiding, responsible citizens the individual right to keep and bear arms, particularly for self-defense. Following Heller, the Supreme Court is almost certain to decide next year whether the Second Amendment applies to states and local governments, as it does to the federal government (see NRA v. Chicago and McDonald v. Chicago.)

While on the Second Circuit, Judge Sotomayor revealed her views on the right to keep and bear arms in Maloney v. Cuomo, a case decided after Heller, yet holding that the Second Amendment is not a fundamental right, that it does not apply to the states, and that if an object is ''designed primarily as a weapon'' that is a sufficient basis for total prohibition even within the home. Earlier in a 2004 case, United States v. Sanchez-Villar, Sotomayor and two colleagues perfunctorily dismissed a Second Amendment claim holding that ''the right to possess a gun is clearly not a fundamental right.'' Imagine if such a view were expressed about other fundamental rights guaranteed by the Bill of Rights, such as the First, Fourth and Fifth Amendments.

Surprisingly, Heller was a 5–4 decision, with some justices arguing that the Second Amendment does not apply to private citizens or that if it does, even a total gun ban could be upheld if a ''legitimate governmental interest'' could be found. The dissenting justices also found D.C.'s absolute ban on handguns within the home to be a ''reasonable'' restriction. If this had been the majority view, then any gun ban could be upheld, and the Second Amendment would be meaningless.

The Second Amendment survives today by a single vote in the Supreme Court. Both its application to the states and whether there will be a meaningfully strict standard of review remain to be decided by the High Court. Judge Sotomayor has already revealed her views on these issues and we believe they are contrary to the intent and purposes of the Second Amendment and Bill of Rights. As Second Amendment leaders deeply concerned about preserving all fundamental rights for current and future generations of Americans, we strongly oppose this nominee, and urge the Senate not to confirm Judge Sotomayor.

Sincerely,

Sandra S. Froman, Esq., Former President, National Rifle Association of America, NRA Board of Directors and Executive Council; Landis Aden, President, Arizona State Rifle & Pistol Association; Scott L. Bach, Esq., President, Association of New Jersey Rifle and Pistol Clubs; The Honorable Bob Barr, Former Congressman, 7th District of Georgia, NRA Board of Directors; Ken Blackwell, Senior Fellow, Family Research Council, NRA Board of Directors; Rep. Jennifer R. Coffey, NREMT–I, Representative, New Hampshire State House of Representatives, Representative, New Hampshire General Court, Director and National Coordinator, Second Amendment Sisters, Inc., Advisor, New Hampshire Pro-Gun Advisory Council; Robert K. Corbin, Esq., Former Attorney General, State of Arizona, Former President of NRA and current member of NRA Executive Council; Jim Dark, Former Executive Director, Texas State Rifle Association, NRA Board of Directors.

Alan M. Gottlieb, Chairman, Citizens Committee for the Right to Keep and Bear Arms; Tom Gresham, Host of ''Gun Talk,'' Nationally syndicated radio talk show; Gene Hoffman, Jr., Chairman, The Calguns Foundation, Susan Howard, NRA Board of Directors; Tom King, President, New York State Rifle and Pistol Association, NRA Board of Directors; John T. Lee, President, The Pennsylvania Rifle and Pistol Association; Owen P. Buz Mills, President, Gunsite Academy, Inc., NRA Board of Directors; Evan F. Nappen, Esq., Corporate Counsel and Director, Pro-Gun New Hampshire, Inc.

Grover G. Norquist, President, Americans for Tax Reform, NRA Board of Directors; Sheriff Jay Printz, Retired Sheriff and Coroner, Ravalli County, Montana, Successful plaintiff in U.S. Supreme Court case Printz vs. U.S., NRA Board of Directors; Todd J. Rathner, President, T. Jeffrey Safari Company, NRA Board of Directors; Wayne Anthony Ross, Esq., President, Alaska Gun Collectors Association, Former Attorney General, State of Alaska, NRA Board of Directors; Don Saba, Ph.D., Sierra Bioresearch, NRA Board of Directors; Robert E. Sanders, Esq., Former Assistant Director (Law Enforcement), Bureau of Alcohol, Tobacco and Firearms, NRA Board of Directors; Jon A. Standridge, Brigadier General (USA Ret.); Joseph P. Tartaro, President, Second Amendment Foundation; Jim Wallace, Executive Director, Gun Owners' Action League.

NATIONAL RIGHT TO LIFE
COMMITTEE, INC.,
Washington, DC, July 27, 2009.

Hon. HARRY REID,
Majority Leader, U.S. Senate, The Capitol, Washington, DC.

Hon. MITCH MCCONNELL,
Republican Leader, U.S. Senate, The Capitol, Washington, DC.

DEAR LEADER REID AND LEADER MCCONNELL: On behalf of the National Right to Life Committee (NRLC), the federation of right-to-life organizations in all 50 states, we write to express the opposition of our organization to the confirmation of Judge Sonia Sotomayor as an associate justice of the United States Supreme Court.

As a judge, Ms. Sotomayor has encountered little in the way of abortion-related litigation, either at the district court or the court of appeals. In the single ruling that she authored that bore directly on an abortion-related federal policy, Center for Reproductive Law and Policy v. Bush, the result was unambiguously governed by the precedents of the U.S. Supreme Court and the Second Circuit. Yet, there are many troubling indications that Ms. Sotomayor believes that it is the proper role of the U.S. Supreme Court to construct and enforce constitutional doctrines on social policy questions, even where the text and history of the Constitution provide no basis for removing an issue from the realm of lawmaking by the duly elected representatives of the people.

Legal abortion on demand was imposed by seven Supreme Court justices in Roe v. Wade. Roe was an exercise in judicial legislation, aptly branded ''an exercise of raw judicial power'' by dissenting Justice Byron White. The ruling lacked any real basis in the text of the Constitution, and imposed a policy that was completely at odds with the intent of the lawmakers who crafted and ratified the Fourteenth Amendment.

The evidence indicates that Ms. Sotomayor approves of the Roe ruling and approves of the type of judicial activism that produced it. For a period of 12 years (1980–1992), prior to becoming a judge, Ms. Sotomayor served on the governing board of the Puerto Rican Legal Defense and Education Fund (PRLDEF), and for part of that time she was the chair of the PRLDEF Litigation Committee. During her tenure on the board, the PRLDEF was actively involved in litigation that attempted to persuade the Supreme Court to expand the judge-created ''right to abortion,'' often beyond what the Court was willing to embrace. During this period, the fund joined briefs at the U.S. Supreme Court in six abortion-related cases. These briefs urged the Court to regard abortion as a ''fundamental right'' (a right on the level of freedom of speech), to apply the strictest standard of scrutiny when reviewing abortion-regulated laws, and thereby to nullify informed consent requirements (including those involving ultrasound), waiting periods, parental notification requirements, restrictions on taxpayer funding of abortion, and even record keeping requirements. The PRLDEF's own ''statement of interest'' in three of these cases said that the PRLDEF ''opposes any efforts to overturn or in any way restrict the rights recognized in Roe v. Wade.''

During her recent confirmation hearings, Ms. Sotomayor suggested that she was only aware of this litigation activity in the most general terms, and had no responsibility for or awareness of the substance of the briefs. Frankly, this testimony was not very believable. Ms. Sotomayor was a Yale Law School graduate who, according to many accounts, is exceedingly—even excessively—detail oriented on the legal matters in which she is involved. More believable is what the New York Times reported on May 29, 2009, after

interviewing various parties who were directly involved in the PRLDEF litigation activity during this period: ''Ms. Sotomayor stood out, frequently meeting with the legal staff to review the status of cases, several former members said. . . . The board monitored all litigation undertaken by the fund's lawyers, and a number of those lawyers said Ms. Sotomayor was an involved and ardent supporter of their various legal efforts during her time with the group.''

If confirmed to the U.S. Supreme Court, Ms. Sotomayor will no longer be constrained by the precedents of that Court, including the precedents in which the Court upheld laws requiring notification of a parent before performing an abortion on a minor, requiring a pre-abortion waiting period, barring public funding of abortion, and—by a single vote, in 2007—banning partial-birth abortion. Nor, it appears, will she feel greatly constrained by the text and history of the Constitution, in which Roe v. Wade and its progeny find no support.

Because the available evidence strongly suggests that once on the Supreme Court, Sonia Sotomayor will seek to nullify abortion-related laws adopted through the normal legislative processes of our democracy, consistent with the extreme legal theories with which she was associated before being appointed to the federal bench, National Right to Life urges all senators to vote against her confirmation to the Supreme Court.

Respectfully,

DAVID N. O'STEEN, PH.D.,
Executive Director.
DOUGLAS JOHNSON,
Legislative Director.

JULY 13, 2009.

DEAR CHAIRMAN PATRICK LEAHY AND SENATE JUDICIARY RANKING MEMBER JEFF SESSIONS: On behalf of FRC Action (FRCA), the legislative arm of the Family Research Council, and the families we represent, I write to you today with serious reservations regarding the nomination of Sonia Sotomayor to the United States Supreme Court.

The Senate Judiciary Committee has the important role of properly vetting any nominee to ensure that the nominee has the requisite competence, temperament, character, knowledge of the law and experience to make a good jurist. The nominee must be committed to making decisions based on the law and the facts of each case. Personal ideological predispositions toward certain results must be set aside, and the nominee must have the ability to faithfully uphold the Constitution recognizing that it is the supreme law and source of authority for all American law, including judicial precedents. A review of Ms. Sotomayor's record shows she is lacking in many of these qualities.

Senators on the committee need to have Ms. Sotomayor address what exactly she meant by some of her more controversial statements, why she tried to suppress her ruling in the Connecticut firefighters' discrimination case and her seeming disregard for U.S. judicial sovereignty. Ms. Sotomayor should also describe the extent of her role in the anti-life work at the Puerto Rican Legal Defense and Education Fund (PRLDEF).

From 1980 to 1992, Judge Sotomayor was an active governing board member of the PRLDEF where she helped to shape the group's controversial legal policy. Just one example of work done while she was there is the brief for Webster v. Reproductive Health Services, written in 1989, in which the organization called the right to abortion ''precious.'' Ms. Sotomayor's troubled history as a jurist, an activist and as an attorney have surfaced numerous other concerns on sanctity of life issues, on sovereignty matters, marriage questions and more that makes us question her fitness to serve on our nation's highest court.

Barring significant revelations at her Senate confirmation hearing that change our assessment of her judicial philosophy, Family Research Council Action must stand in opposition to Judge Sotomayor's confirmation. The available evidence reveals Judge Sotomayor to be a judicial activist who does not have a proper understanding of the limited role of judges and the judiciary in our constitutional system.

Sincerely,

THOMAS MCCLUSKY,
Senior Vice President,
FRC Action.

JULY 13, 2009.

AS HEARINGS BEGIN, WOMEN'S COALITION FOR JUSTICE QUESTIONS SOTOMAYOR'S ABILITY TO BE IMPARTIAL

WASHINGTON, DC.—Members of the Women's Coalition for Justice released the following statements in response to today's first Senate confirmation hearing for Supreme Court Nominee Judge Sonia Sotomayor.

Genevieve Wood, Vice President of Strategic Initiatives, The Heritage Foundation, stated, ''I am troubled by Judge Sotomayor's rejection of Justice O'Connor's favored adage that a wise old man would reach the same conclusion as a wise old woman. It is deeply offensive that she has suggested that the sexes and ethnicities 'have basic differences in logic and reasoning,' and even more offensive that she believes it is somehow patriotic to indulge in gender or ethnic biases. Her statements raise grave concerns about whether she can truly be impartial and the current defense that she simply endorses including different perspectives doesn't hold water. The Senators must ask challenging questions to determine whether she believes that a wise woman can reach the same conclusion as a wise man, or whether she intends to bring bias, as she has suggested, even to most cases.''

Marjorie Dannenfelser, President of the Susan B. Anthony List, stated, ''Women are best protected by the rule of law—and blind justice. Their rights are most endangered when personal preference, ideology or painful personal history inform judgment. Susan B. Anthony and her early feminist compatriots fought for a human rights standard sustained only through blind justice. When evidence of personal preference appears in any Supreme Court nominee's judgment, it should give all women pause. Sonia Sotomayor's record of support for judicial activism and her work for the pro-abortion Puerto Rican Legal Defense Fund offer little comfort that she will be a friend to the unborn on the Supreme Court. Given what we know about Sonia Sotomayor's own judicial philosophy, including her support of policy-making from the bench, senators have just cause to reject her appointment to the United States Supreme Court.''

Connie Mackey, Senior Vice President for FRCAction remarked, ''I reject the admonition of Senator Chuck Schumer that opposing the nomination of Sonia Sotomayor will cause the Republican Party to lose women's vote permanently. I believe his crystal ball is cloudy when it comes to women in America. Women think independently and most women will see that Sonia Sotomayor is a judicial activist who will use the courts to make policy reflective of her own personal judgments as opposed to ruling based upon the tenets put forth by the Constitution. Her career as an activist is well-documented and disqualifies her from taking the 9th seat on the United States Supreme Court.''

Wendy Wright, President of Concerned Women for America Legislative Action Committee stated, ''Sonia Sotomayor's record reveals she lacks the primary characteristic required of a judge—impartiality. She has used her position as a judge to deny equal justice to people based on their ethnicity. She worked with organizations that aggressively fought against common-sense regulations on abortion. Her flippant dismissal of cases and unwillingness to provide Constitutional reasoning for her decisions exposes her arrogance, disrespect for our judicial system and the people whose lives are dramatically impacted by her decisions. Through her work as a judge and in organizations, she has denied people equal opportunity to make a living because of the color of their skin, preborn babies their right to live, and women the right not to be exploited by abortionists. After giving her the benefit of the doubt, her record of giving preferences to certain classes of people and denying equal justice to others obliges Concerned Women for America Legislative Action Committee to oppose her nomination to the U.S. Supreme Court. Sonia Sotomayor has disqualified herself from the U.S. Supreme Court. Senators need to set aside their party loyalty and do their Constitutional duty to uphold equal justice for all by opposing Sonia Sotomayor's nomination.''

Charmaine Yoest, President and CEO of Americans United for Life remarked, ''It's important for the American people to understand that the confirmation of Judge Sonia Sotomayor to the Supreme Court will dramatically shift the dynamics of the Court. Her record of activism in support of a radical pro-abortion agenda is clear and documented. This is a judge with a record significantly worse than Judge Souter's. We are asking the Senate Judiciary Committee to seriously consider the consequences of confirming a Supreme Court justice whose radical record shows she would rule against all common-sense legal protections for the unborn, including parental notification, informed consent and bans on partial-birth abortion. The American people will not tolerate a nominee who is outside the mainstream of American public opinion.''

THE ETHICS & RELIGIOUS LIBERTY COMMISSION OF THE SOUTHERN BAPTIST CONVENTION,
Nashville, TN, July 14, 2009.

Hon. PATRICK J. LEAHY,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.
Hon. JEFF SESSIONS,
Ranking Member, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: This week, the Senate Judiciary committee begins its confirmation hearings for Judge Sonia Sotomayor. We are deeply troubled by many aspects of Judge Sotomayor's record. While we could identify a number of factors that concern us, we describe below those that are the most troubling.

Judge Sotomayor does not appear to share the pro-life values of nearly all Southern Baptists and of most Americans. Recent polling reveals that the majority of Americans are pro-life. Her lack of rulings on major sanctity of life issues makes it more difficult to determine how she would rule on sanctity issues, but her association with the Puerto Rican Legal Defense and Education Fund raises serious questions about her commitment to pro-life values. She served on the Board of this organization, including as Vice President and Chair of the litigation committee. During that time, the Fund filed briefs in at least six prominent court cases in support of abortion rights.

While Judge Sotomayor has ruled favorably on abortion-related cases at times, we note that her rulings on race-related issues reveal a much more ideologically rigid attitude toward race. Her ruling in Ricci v. DeStefano is indefensible. We support full racial equality, and therefore support efforts that create equal opportunity for all races. However, we oppose policies that discriminate against some races in order to achieve a predetermined racial outcome. Racial discrimination is wrong in any circumstance.

We are also disturbed by Judge Sotomayor's lack of respect for private property rights. Her ruling in Didden v. Village of Port Chester demonstrates a willingness to ignore the Constitution's Fifth Amendment protection of private property. While the Kelo case was certainly precedential in her panel's ruling, the Supreme Court stated in their majority opinion that municipalities could not take private property under ''the mere pretext of a public purpose, when its actual purpose was to bestow a private benefit.'' Judge Sotomayor was either unaware of this qualification or chose to ignore it.

Judge Sotomayor has often ruled very responsibly, but the rate at which she has been overruled by the U.S. Supreme Court reveals that she should not be in a position where her decisions cannot be subjected to review. She is out of the mainstream of the American public and too often of the very Court for which she is being considered. We urge you to do all you can to bring out all the facts about Judge Sotomayor during her confirmation hearings, and if these troubling issues remain, to vote against her confirmation.

Sincerely,

RICHARD D. LAND,
President.

THE ETHICS & RELIGIOUS LIBERTY COMMISSION OF THE SOUTHERN BAPTIST CONVENTION,
Nashville, TN, July 28, 2009.

Hon. PATRICK J. LEAHY,
Chairman, Senate Judiciary Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: This week, the Senate Judiciary Committee is scheduled to vote on the confirmation of Judge Sonia Sotomayor as our nation's newest Supreme Court Justice. As you recall, we raised a number of concerns about her record that we believed required examination during her hearings.

We watched the hearings and listened to Judge Sotomayor's answers to some very probing questions, but we are not convinced that she is an appropriate candidate for the United States Supreme Court. We urge therefore that you vote against her confirmation.

While we appreciated Judge Sotomayor's affirmation of the centrality of the U.S. Constitution in rulings, we believe her record demonstrates an inconsistent application of that standard at best. The following cases remain determinative for us. In Owkedy v. Molinari she showed no regard for the 1st Amendment guarantee of speech or religious expression. In Maloney v. Cuomo she weakened the 2nd Amendment's guarantee of the individual's right to bear arms. In Didden v. Village of Port Chester she failed to uphold the 5th Amendment's protection of personal property. In Ricci v. DeStefano she violated the 14th Amendment's guarantee of equal protection.

Additionally, we are deeply concerned about Judge Sotomayor's failure to adequately address her 12 year involvement with the Puerto Rican Legal Defense and Education Fund. We believe she was more involved with the group's active efforts to promote a pro-abortion agenda than she admitted.

Finally, her numerous reversals by the U.S. Supreme Court reveal that Judge Sotomayor does not have the grasp of the fine points of Constitutional law required of a member of the Supreme Court. She needs someone to pass final judgment on her decisions. No such oversight would be possible if she were to join the Court of last resort.

We regret that we must oppose the nomination of Judge Sotomayor. She is obviously very gifted. Her personal story as well is the kind of story that compels respect and appreciation, We applaud her for her commitment and dedication. Nevertheless, we do not believe Judge Sotomayor meets the requirements for this extremely important position in our nation. We therefore urge you to vote against her confirmation,

Thank you for your service to our nation. We pray God's guidance and wisdom for you as you make the decisions that affect life for hundreds of millions of people.

Sincerely,

RICHARD D. LAND,
President.

AMERICAN ASSOCIATION OF CHRISTIAN SCHOOLS,
East Ridge, TN, July 15, 2009.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC

DEAR SENATOR LEAHY: The American Association of Christian Schools strongly urges you to oppose the confirmation of Judge Sonia Sotomayor to the United States Supreme Court, based on her inability to judge without respect of persons and her misinterpretation of the rule of law and the United States Constitution.

As President Obama sought a possible nominee, he consistently used the term ''empathy'' to describe the character of his first Supreme Court Justice nominee. When he nominated Judge Sonia Sotomayor, he based the criteria of a U.S. Supreme Court Justice on superficial elements rather than on character which demonstrates an actual understanding of the rule of law and original intent of the judicial system established by our Founding Fathers. She has continually met his standards of ''empathy,'' proving through her actions and words her desire to exercise empathy from the bench. According to Judge Sotomayor, to ''ignore . . . our differences as women and men of color [is to] do a disservice both to the law and society.'' She further believes her ''experience will affect the facts that [I] choose to see as a judge.''

We are concerned that the element of ''empathy'' in the highest Court of the land will redefine and replace the longstanding aspect of impartiality under the law. It seems that the standard of law should no longer solely lie on the Constitution, but also on the hearts of justices.

Other concerns are based on Judge Sotomayor's interpretation on the right to life. She recently expressed that she has never thought about the rights of the unborn. We find this tragic. Whether a person supports abortion or opposes it, a U.S. Supreme Court Justice should be extremely familiar with the rights that every American is endowed, including life.

While Judge Sotomayor may have more experience than any other Supreme Court Justice currently sitting on the bench, the Administration and many members of the Senate are impatiently rushing her through the process without properly and adequately researching and critiquing her credentials and past decisions that come with that experience. It is essential that every Senator is given the time and resources to fully examine Judge Sotomayor's past decisions and present understanding of the rule of law.

Qualifications and credentials are a necessity when filling the bench, but an ability to carry out the duties of a Supreme Court Justice and meet the standards by which they are held to, is of equal importance. Understanding the rights which we are endowed by our Creator and interpreting the law as our founding fathers originally intended is essential. Just as Lady Justice holds the scales to depict her impartiality and a blindfold to cover her eyes from the spheres that try to influence her, her wisdom lies in the ability to pursue the law and to demand nothing less. She is un-influenced, she is impartial.

We urge you to oppose this nominee, as we believe that she will cause not only harm to the judicial system and the principles of law on which our country was founded, but she also poses a threat to every American who does not receive her ''empathy.''

Sincerely,

KEITH WIEBE,
President.

JULY 14, 2009.

DEAR SENATOR: On behalf of the Susan B. Anthony List (SBA List), and our 260,000 members and pro-life activists across the country, I write to encourage you to oppose the nomination of Judge Sonia Sotomayor to the United States Supreme Court.

Women are best protected by the rule of law—and blind justice. Their rights are most endangered when personal preference, ideology or painful personal history inform judgment. Susan B. Anthony and her early feminist compatriots fought for a human rights standard sustained only through blind justice. When evidence of personal preference appears in any Supreme Court nominee's judgment, it should give all women pause.

Sonia Sotomayor's record of support for judicial activism and her work for the pro-abortion Puerto Rican Legal Defense Fund offer little comfort that she will be a friend to the unborn on the Supreme Court.

While Sotomayor served as a board member of the Puerto Rican Legal Defense Fund, the group filed six briefs with the court advocating for unmitigated abortion on-demand. Multiple accounts tell us that the board closely monitored the fund's work, and that Sotomayor was ''an involved and ardent supporter of their various legal efforts.'' (New York Times, May 28, 2009)

The briefs in question advocate a philosophy that rejects any legal restrictions on abortion. This position disregards both the broad public support for such restrictions and the fact that such laws save lives. For example when the government restricts funding for abortion on-demand, we see fewer abortions. Even abortion advocates recognize this reality. The Guttmacher Institute recently issued a report showing that when public funding is not available, 1-in-4 Medicaid-eligible women do not have abortions. That means approximately 25% of babies whose mothers receive government subsidized health care likely survive due to laws like the Hyde Amendment. Sotomayor's record indicates she would not uphold such commonsense restrictions.

Women facing unplanned pregnancies deserve woman-centered solutions to help both mother and child, not abortion on-demand, which pits mother against child in the most tragic of circumstances. They deserve Supreme Court Justices who will uphold the Right to Life.

Given what we know about Sonia Sotomayor's own judicial philosophy, including her support of policymaking from the bench, you have just cause to reject her appointment to the United States Supreme Court.

Sincerely,

MARJORIE DANNENFELSER,
President, Susan B. Anthony List.

Mr. SESSIONS. Those letters were from Fidelis, Defending Life, Faith and Family, outlining their opposition; a letter from the National Rifle Association; a letter from the National Right to Life Committee; a letter from FRCAction; the Women's Coalition for Justice; the SBA List, the Susan B. Anthony List; the American Association of Christian Schools; and the Ethics and Religious Liberty Commission of the Southern Baptist Convention. Those were one group of letters.

In addition, there are letters from the National Rifle Association, as I mentioned earlier. They have not often, if ever, weighed in on a judicial nomination. But this case, this nomination was so close to one of the most critical issues facing the country today. That is, whether the second amendment applies to States.

If the second amendment does not apply to States, then States and cities can completely ban guns within their jurisdiction.

Judge Sotomayor earlier this year, after the Heller decision, in the first case of its kind after the Supreme Court's decision in Heller, concluded the second amendment does not apply to the States.

She concluded in her very brief opinion that the second amendment does not apply to the States; they could eliminate firearms. She concluded it was settled law that this was the case when the Supreme Court in Heller—and as the ninth circuit concluded, which held differently—explicitly left open this question.

So I think any person who cares about the second amendment and the right to keep and bear arms has to be very troubled that the nominee, earlier this year, concluded that it does not apply and it is settled law, when the Supreme Court had opened it up, as the ninth circuit said.

If it is not reversed, her opinion is not reversed, then cities and counties will be able to restrict firearm possession completely.

Sandra Froman, who is the former president of the National Rifle Association, a Harvard law graduate herself, wrote that:

> Surprisingly, Heller was a 5–4 decision, with some justices arguing that the Second Amendment does not apply to private citizens or that if it does, even a total gun ban would be upheld if a ''legitimate governmental interest'' could be found.

She goes on to say:

> The Second Amendment survives today by a single vote in the Supreme Court.

Heller was a 5-to-4 decision.

> Both its application to the States and whether there will be a meaningfully strict standard of review remain to be decided by the High Court.

I have offered that letter and other letters that we have received into the RECORD. I also printed in the RECORD a series of op-eds I have written on the way I believe an analysis of a nominee should be conducted and what are the important principles.

Mr. President, I would like to express my appreciation to my staff whose assistance throughout this process was critical to the fair hearing that Judge Sotomayor received. The Senate Judiciary Committee held a hearing for Judge Sotomayor more quickly than it had for the last three Supreme Court nominees, despite the fact that she has been touted as having the most extensive legal record of any recent Supreme Court nominee. As such, my staff went to great efforts to prepare for the hearing on her nomination.

Our team was led by chief counsel for the Supreme Court nomination Elisebeth Cook; staff director Brian Benczkowski; chief counsel William Smith; deputy staff director Matt Miner; and general counsel Joe Matal. Their knowledge of the issues and wise counsel proved invaluable during this confirmation process.

In addition, I am grateful to our Supreme Court team, including counsels Ted Lehman, Seth Wood, Ashok Pinto, Ryan Nelson, and Isaac Fong; law clerks Chris Mills, Matt Kuhn, Anne Mackin, and Andrew English; and intern Jamie Sunderland.

I would like to acknowledge and extend my gratitude to the dedicated and talented members of my permanent staff who worked tirelessly on this nomination, all the while handling the regular legislative business and other nominations that came before the Judiciary Committee: counsels Danielle Brucchieri, Bradley Hayes, Nathan Hallford, and Phil Zimmerly; professional staff member Lauren Pastarnack; and staff assistants Sarah Thompson and Andrew Bennion.

I would be remiss if I failed to mention the important work done every day by my communications director Stephen Boyd, press secretaries Sarah Haley and Stephen Miller, and press assistant Andrew Logan.

The people I have mentioned bore the bulk of the workload, laboring tirelessly night after night, day after day, and nonstop through the weekends. They deserve our recognition as a tribute to their hard work, professionalism, and dedication to public service.

I also would like to acknowledge the great help we received from the Republican majority leader and his staff: John Abegg, Josh Holmes, and Webber Steinhoff; as well as the invaluable contributions of Republican Policy Committee counsel Mark Patton.

Finally, my thanks to the Judiciary Committee's chief clerk, Roslyne Turner and her assistant, Erin O'Neill.

All of these fine staff members contributed to this process and we would not have been able to conduct such a fair and thorough hearing without their hard work and their professionalism. To each of them, I extend my heartfelt thanks.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. RISCH. I rise today, fellow Senators, to discuss the current nomination that is under consideration by the Senate for the U.S. Supreme Court seat.

Like every Member of this body, I take this responsibility seriously. The Constitution of the United States gives each one of the 100 Members of this body the solemn duty to participate in this under what has been called the advice and consent provisions.

Obviously, there are two parts here. First ''advice'' and the second ''consent.'' The first part, the advice that the President seeks, is not under the control of any Member here but is under the control of the President. He did not seek my advice on this, which is not surprising.

But, secondly, I am required to exercise my constitutional duty to express either consent or the withholding of consent. I appear here this morning to explain the conclusion I have reached in that regard.

This is a serious constitutional duty. I think every Member here takes it seriously. I think as we do exercise this constitutional duty, it is incumbent upon each one of us to create, in our own mind, a path forward and a criteria, if you would, as to how to reach a conclusion concerning that consent.

I think all of us come at it from a different point of view. Some of us have had some experience in that regard. Although I have not had experience here in this body with a U.S. Supreme Court appointment, I had the opportunity at the State level, since I have served as Governor and had to appoint judges, to determine if, in my mind, a path forward, if you would, or a way, a method, in which we would reach that conclusion as to the appropriateness of a person, their qualifications to serve in a judicial capacity. I have done that.

In addition to that, I think all of us look to other people who have exercised this responsibility and looked for the type of matrix they used to reach the conclusion. I have also done that. I have chosen someone to emulate as far as how I would reach a conclusion as to whether I would grant the consent or withhold the consent.

That person whom I have chosen to emulate is a person who actually chose a matrix that is similar to mine; that is, when we do this, we judge who the person is, and what that person stands for—the ''who'' and the ''what.''

Like the person I have chosen to emulate, my focus is not on the ''who,'' my focus is on the ''what.'' What does this person stand for? Because it is, indeed, at the end of the day, the ''what'' that will guide that person when that person, when the nominee, makes decisions in their capacity as a U.S. Supreme Court Justice.

I met with the nominee. I have read her opinions. I have read a lot that has been written about the nominee, and weighed those using the matrix I have chosen, and that person I chose to emulate chose to reach a conclusion as to whether to grant the consent or to withhold the consent.

I think this is a decision that no one should reach lightly but should reach based upon weighing the factors that they have chosen. When it comes to the ''who,'' I find the nominee that the President has put forward to be a person who is engaging, who is very wise, who has had clearly the experience to fill this position. I have no difficulty with that at all. I am honored that she would spend the considerable time she made available for me to meet with her and discuss with her the various issues that are important to the great State of Idaho.

At the end of the day, I have to move from the ''who'' to the ''what.'' And in that regard, I want to talk about now who I chose to emulate when it comes to making this decision. The person I chose to emulate is a person who currently serves as the President of the United States.

He came to this body and had the opportunity to do just what I have done; that is, to go through this exercise to determine the ''who'' and the ''what'' when it comes to the appointment and the qualifications to serve as a Justice of the U.S. Supreme Court.

Then-Senator Obama went through this exact same exercise. At the end of the day, when he voted on two of the nominees, two of the Supreme Court nominees, he determined that based upon his weighing of the nominees, he could not, in good conscience, vote for the nominees because—not because of the ''who'' part of the equation but because of the ''what does this person stand for'' part of the equation.

He did that based upon his vision of what he wanted to see in America. I did likewise. He concluded that when he withheld his consent on those two, that person did not meet his view of what the vision for America was. I have reached the same conclusion on this nominee.

In all good conscience, I must withhold the consent. My fellow Senators, I will withhold my consent based not on the ''who'' but on the ''what'' on this nomination. I will vote no.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Madam President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The majority controls the next 60 minutes with respect to the nomination of Judge Sotomayor.

Mr. LEAHY. Madam President, I thank the many Senators who took part yesterday in the historic debate over the nomination of Judge Sonia Sotomayor to the Supreme Court. In fact, the distinguished Presiding Officer was one who introduced her to the Judiciary Committee and also spoke eloquently in the Chamber yesterday. I am hopeful that today will not only conclude the debate, but we will then vote on her confirmation and vote favorably.

Senator KLOBUCHAR, the senior Senator from Minnesota, a very active member of the Judiciary Committee, led a group of five women Senators in a powerful opening hour of debate yesterday. The distinguished Presiding Officer was one of them, and it also included Senators SHAHEEN, STABENOW, and MURRAY. Their speeches were very moving. Several Judiciary Committee Senators gave strong speeches of support for Judge Sotomayor's nomination, including Senator SCHUMER, Senator SPECTER and Senator CARDIN. Senator FRANKEN, the newest Member of the Senate and newest member of the Judiciary Committee, gave his first Senate speech. Most of us follow the tradition of waiting for our first Senate speech to make sure it is on a matter of some moment. In his case, it was as momentous a matter as one could pick, the nomination of a Supreme Court Justice. Senator FRANKEN eloquently spoke on her behalf.

We heard from Senator LAUTENBERG; Senator DODD, my neighbor in the Senate, both in the row I sit and also in my Senate office, and a good friend. Senators BAUCUS, MERKLEY, AKAKA, LIEBERMAN, CASEY, WYDEN, and BENNET all spoke for her.

Statements of support for Judge Sotomayor yesterday came from both sides of the aisle. On the Republican side, Senator MARTINEZ, who has been a strong supporter of Judge Sotomayor, gave a particularly moving speech. Senator BOND, a former Governor, former attorney general, and one who has appointed judges, joined him in announcing his intent to vote for this well-qualified nominee. My neighbors from New England, Senators COLLINS and SNOWE, also spoke in favor of her nomination.

The troubling thing yesterday was to hear some critics of hers making unfounded insinuations about the integrity and character of this outstanding nominee. That is wrong. She is a judge of unimpeachable character and integrity. These critics have also chosen to ignore her extensive record of judicial modesty and restraint from 17 years on the Federal bench. Instead they have focused on and mischaracterized her rulings in a handful, out of more than 3,600, of cases. That is interesting, out of 3,600 cases, they could find only a tiny handful to criticize, and they can criticize those only by mischaracterizing them.

Let me go to one area in particular. Some Republican Senators have twisted Judge Sotomayor's participation in a unanimous Second Circuit decision that applied a 123-year-old U.S. Supreme Court precedent to reject a challenge to a New York State law of restriction on chukka sticks, a martial arts device. What she was doing was following the precedent of the Supreme Court; again, one of the reasons why it was a unanimous decision of the Second Circuit. Some have trumped up a straw man by ignoring the facts of Judge Sotomayor's decision. It is easy to come to a conclusion if you ignore the facts and the law and just go to your conclusion. Of course, that doesn't make it right. They ignored the facts of her decision. They ignored the developing state of second amendment law, and they ignored Judge Sotomayor's testimony during her confirmation hearing, recognizing the individual right to bear arms that is guaranteed by the second amendment.

In fact, in joining the per curiam decision in Maloney v. Cuomo, Judge Sotomayor followed and applied the holding of the Supreme Court that the second amendment provides individuals with the right to keep and bear arms. When the Supreme Court handed down its decision in District of Columbia v. Heller last year, I applauded the Court for affirming what so many Americans already believe. The second amendment protects an individual's right to own a firearm. The Heller decision reaffirmed and strengthened our Bill of Rights. Vermont has some of the least restrictive gun laws in the country. In fact, most would say they have the least restrictive gun laws. One does not need a permit to carry a concealed firearm in Vermont, if they don't have a felony conviction. But Vermonters are trusted to conduct themselves responsibly and safely, and we do.

I am a native Vermonter. I have lived there all my life. I find Vermonters do conduct themselves safely and responsibly. Similar to many Vermonters, I grew up with firearms. I have enormous respect and appreciation for the freedoms the second amendment protects. In fact, I own many firearms. Similar to other rights protected by our Bill of Rights, the second amendment right to keep and bear arms is one I cherish. Fortunately, I live in a rural area in Vermont. I can set up targets and use my backyard as an impromptu pistol range and often do.

The Supreme Court's decision in Heller recognized that the second amendment guarantees an individual the right to keep and bear arms against Federal restrictions. So before we go off using talking points and ignore what she did or ignore what she said, I thought it might be good to kind of spoil the rhetoric by actually going to the facts.

The facts are these. At her confirmation hearing, Judge Sotomayor repeatedly affirmed her view of the second amendment guarantees as set forth in the Heller decision. This seems to be ignored by some who criticize her. In fact, I asked a question on it because it is important to me as a Vermonter, as a Senator and certainly as chairman of the Judiciary Committee. In response to my question, she testified:

> I understand how important the right to bear arms is to many, many Americans. In fact, one of my godchildren is a member of the NRA, and I have friends who hunt. I understand the individual right fully that the Supreme Court recognized in Heller.

Judge Sotomayor reaffirmed that statement in answers to questions from Senators KYL, COBURN, and FEINGOLD.

Judge Sotomayor testified in response to a question from Senator KYL:

> The decision of the Court in Heller . . . recognized an individual right to bear arms as applied to the Federal Government.

Judge Sotomayor testified in response to Senator COBURN:

> In the Supreme Court's decision in Heller, it recognized an individual's right to bear arms as a right guaranteed by the Second Amendment.

In response to Senator FEINGOLD, Judge Sotomayor testified about Heller:

> [T]he Supreme Court did hold that there is . . . an individual right to bear arms, and . . . I fully accept that.

Judge Sotomayor participated on a Second Circuit panel in a case called Maloney v. Cuomo that was decided earlier this year in which the unanimous panel—let me emphasize, the unanimous panel—recognized the Supreme Court decision in Heller that the personal right to bear arms is guaranteed by the second amendment against Federal law restrictions.

Justice Scalia, arguably the most conservative Justice on the U.S. Supreme Court, said in his opinion in the Heller case that the Heller case expressly left unresolved and explicitly reserved as a separate question whether the second amendment guarantee applies to the States and laws adopted by the States, whether the State of Vermont or any other State. In doing so, the Court left in place a series of Supreme Court holdings from 1876 to 1894 that the second amendment does not apply to the States.

I mention this because there are those who want Justices to not be activists but to be traditionalists. Going back to 1876 to 1894 recognizes a tradition of this country. The question posed to Judge Sotomayor and the Second Circuit in Maloney involved a challenge by a criminal defendant to a New York State law restriction on a martial arts device called nunchucks or chukka sticks, not firearms. Indeed, in that case the appellant had pleaded guilty to disorderly conduct, agreed to the destruction of the nunchucks as part of the plea, and the charge of possession of the nunchucks in violation of New York law had been dismissed. The Second Circuit considered the case on appeal from a denial of a subsequent declaratory judgment case.

In declining to overrule the trial judge—the trial judge would not set aside the State law against nunchucks—the Second Circuit panel emphasized that its decision was dictated by Supreme Court precedent, holding that: ''Where, as here, a Supreme Court precedent has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to the Supreme Court the prerogative of overruling its own decisions.' '' Had the Second Circuit acted otherwise, it would have been seen as judicial activism and an unwillingness to adhere to Supreme Court precedent. That is something that every single Member of this Chamber has said judges should do, follow Supreme Court precedent.

Now Judge Sotomayor is criticized for doing what a Circuit Court of Appeals judge is supposed to do; that is, follow the precedent of the Supreme Court. She seems to be caught in a Hobson's choice. Had she violated that rule, had they acted otherwise, had they refused to follow Supreme Court precedent, I am sure she would be attacked as being a judicial activist. Come on. Let's be fair. When we have had nominees by Republican Presidents, we have heard over and over again how Republicans want these people because they follow precedent. Here, some Republicans are attacking Judge Sotomayor because she did follow precedent, because she did do what a Court of Appeals judge is supposed to do.

In fact, the approach taken by the Second Circuit decision in Maloney was adopted by some of the most respected, very conservative jurists in the country. Judges Easterbrook and Posner, both renowned conservatives, people whom I hear quoted by the Republican side over and over again, serve on the Seventh Circuit. They agreed with the Second Circuit panel. This may sound like it is getting into the weeds, but what I am saying is, judges of all stripes ruled the same way. In National Rifle Association v. City of Chicago, they cited the Second Circuit in Maloney. Judges Easterbrook and Posner refused to ignore the direction of the Supreme Court to implement Supreme Court holdings, even if the reasoning in later opinions undermines their rationale and, instead, ''leave to [the Supreme Court] the prerogative of overruling its own decisions.''

What I am saying is, conservative judges, liberal judges, and moderate judges such as Judge Sotomayor all came to the same conclusion: You have to follow precedent. It may sound like I am doing a tutorial for a law school class, but I thought rather than having the rhetoric, let's go to the facts and let's go to the law. Because both the facts and the law are irrefutable.

If Republican Senators wish to criticize, let them criticize Justice Scalia for the Supreme Court's decision in Heller to limit its application against Federal Government restrictions and expressly reserve for another Supreme Court decision whether to incorporate the Second Amendment right against the States. Judges Easterbrook, Posner and Bauer of the Seventh Circuit and Judges Pooler, Sotomayor and Katzmann of the Second Circuit all followed Justice Scalia and the holdings of Supreme Court precedent.

Petitions for certiorari have been filed in both Maloney and National Rifle Association and are currently pending before the Supreme Court. A third, related decision by a panel of the Ninth Circuit is being reconsidered en banc by that Court of Appeals. Republican Senators insisted during the Roberts and Alito hearings that a Supreme Court nominee must avoid making predictions about how she might rule in a case that is likely to come before the Supreme Court. Yet Republican Senators have now reversed their approach to demand that Judge Sotomayor ignore these standards and commit to how she intends to rule on these cases and this issue if confirmed.

Recognizing that she would be unable to say how she would rule, I asked Judge Sotomayor whether she would approach these matters with an open mind and she assured us that she would. I do not see how any fair observer could regard her testimony as hostile to the Second Amendment personal right to bear arms, a right she has embraced and recognizes.

The question of incorporation of the Second Amendment of the Bill of Rights against the States is not merely likely to come before the Court; petitions to decide it are currently pending before the Supreme Court. There are well-recognized limits to how much a judicial nominee can say during her confirmation hearings. Nominees do not answer questions about cases or issues pending before the Supreme Court. It is striking that many of those who today criticize Judge Sotomayor's adherence to these limits strongly defended them just a few years ago, when a Republican President was doing the nominating.

A 2005 Senate Republican Policy Committee Report commissioned by Senator KYL concluded that ''the preservation of an independent judiciary'' depends on a nominee's ability to avoid signaling how she will rule on upcoming cases. According to this report:

> It is inappropriate for any nominee to give any signal as to how he or she might rule on any issue that could come before the court, even if the issue is not presented in a currently pending case. If these novel ''prejudgment demands'' were tolerated, the judicial confirmation process would be radically transformed.

Senator KYL's Republican Policy Committee Report raised concerns that ''no judge can be fair and impartial if burdened by political commitments that Senators try to extract during confirmation hearings'' and concluded that ''nothing less than judicial independence and the preservation of a proper separation of powers is at stake.''

Senators SESSIONS, CORNYN, GRASSLEY, COBURN and HATCH referred to these restrictions on a nominee's ability to answer questions during the Senate's consideration of President Bush's Supreme Court nominees. During the Senate's consideration of the Roberts nomination, Senator SESSIONS said:

> Judges apply the facts to the legal requirements of the situation, and only then make a decision. [Judge Roberts] refused to make opinions on cases that may come before him. Of course, he should not make opinions on that . . . He should not be up there making opinions on the cases. That is so obvious.

At that time, Senator CORNYN shared their view and strongly defended Republican nominees who refused to discuss legal issues that might arise in the future. He said:

> It undermines a nominee's ability to remain impartial once he or she becomes a judge if he or she has already taken positions on issues that might come before him or her on the bench. . . . In other words, just because some Members may ask these questions does not mean the President's nominee should answer them. In accordance with long tradition and norms of the Senate in the confirmation process, they should not answer them.

At the beginning of confirmation hearings for John Roberts, Senator GRASSLEY said: ''The fact is that no Senator has a right to insist on his or her own issue-by-issue philosophy or seek commitments from nominees on specific litmus-test questions likely to come before that Court.''

Senator COBURN criticized those Senators whom he said planned to vote against the Roberts nomination for his failure to state positions on specific issues: ''The real reason they will be voting against John Roberts is because he would not give a definite answer on two or three of the social issues today that face us. He is absolutely right not to give a definite answer because that says he prejudges, that he has made up his mind ahead of time.''

In 2005, Senator HATCH noted the ethical restrictions on a nominee's ability to answer questions and said:

> I have said Senators on the Judiciary Committee can ask any question they want, no matter how stupid the question may be. . . . But the judge does not have to answer those questions. In fact, under the Canons of Judicial Ethics, judges should not be opining or answering questions about issues that may possibly come before them in the future.

Both Judge Roberts and Judge Alito followed their advice and did not answer questions with any specificity about cases that could come before the Supreme Court. Judge Roberts testified during his hearing: ''I think I should stay away from discussions of particular issues that are likely to come before the Court.'' During his hearing, Judge Alito testified:

> I think it's important to draw a distinction between issues that could realistically come up before the courts and issues that . . . are still very much in play . . . that's where I feel that I must draw a line, because no issues that could realistically come up, it would be improper for me to express a view, and I would not reach a conclusion regarding any issue like that before going through the whole judicial process that I described.

I asked Judge Sotomayor during her hearing whether, if not bound by Second Circuit or Supreme Court precedent, on whether second amendment rights should be considered ''fundamental rights,'' she would keep an open mind in evaluating that legal question. Her response to me was straightforward. She said:

> You asked me whether I have an open mind on that question. Absolutely.

She said:

> I would not prejudge any question that came before me if I was a Justice on the Supreme Court.

She could not have gone any further without prejudging the question Justice Scalia's opinion in Heller left open, one that is currently pending before the Supreme Court.

In response to a question from Senator COBURN, Judge Sotomayor testified: ''In the Supreme Court's decision in Heller, it recognized an individual's right to bear arms as a right guaranteed by the Second Amendment. . . . The Maloney case presented a different question. That was whether that individual right would limit the activities that States would do to limit the regulation of firearms.'' Judge Sotomayor also told Senator COBURN at the hearing: ''I can assure your constituents that I have a completely open mind on this question. I do not close my mind to the fact and the understanding that there were developments after the Supreme Court's rulings on incorporation that will apply to this question or be considered.''

In response to a question from Senator SESSIONS on how she would come down on the question of incorporation of the Second Amendment, Judge Sotomayor testified: ''I have not prejudged the question that the Supreme Court left open in Heller . . . of whether this right should be incorporated against the States or not.'' She also answered Senator SESSIONS' questions about the panel decision in Maloney:

> Well, when the Court looks at that issue, it will decide is it incorporated or not. And it will determine by applying the test that it has subsequent to its old precedent, whether or not it is fundamental and hence, incorporated. But the Maloney decision was not addressing the merits of that question. It was addressing what precedent said on that issue.

The only other case in which Judge Sotomayor was involved as an appellate judge involving a Second Amendment contention was a case in which an illegal alien was convicted of distribution and possession with intent to distribute approximately 1.2 kilograms of ''crack'' cocaine and of illegal possession of a firearm while an illegal alien. In that case, United States v. Sanchez-Villar, decided in 2004—before the Supreme Court's decision in Heller—involved an attempt to overturn a jury conviction. The defendant in that case claimed he had received ineffective assistance from his lawyer because his possession of the firearm in New York did not provide probable cause for seizure and arrest was rejected by a unanimous panel of the Second Circuit. The Second Circuit unanimously rejected this claim. In so doing, the panel quoted in a footnote to language from an earlier Second Circuit decision decided before Heller or Maloney. This is not unlike a number of cases in which Judge Sotomayor has upheld police actions when undertaken in good faith.

So I am disappointed by recent news accounts that the National Rifle Association has decided to ''score'' the vote on confirming Judge Sotomayor to the Supreme Court. They did this in response to pressure from the Republican leader. In fact, this is the first time in the history of the NRA that it has ''scored'' a Supreme Court confirmation vote. The irony of this is, if she had been nominated by a Republican President, they would all be supporting her with her record.

Madam President, I ask unanimous consent to have printed in the RECORD, at the conclusion of my statement, a copy of the July 24 letter from four members of the Congressional Hispanic Caucus, who have consistently earned high ratings from the NRA, to the NRA's executive vice president and executive director.

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

(See exhibit 1.)

Mr. LEAHY. Congressmen JOE BACA, SOLOMON ORTIZ, SILVESTRE REYES, and JOHN SALAZAR wrote:

> [W]e are disappointed by the NRA's opposition to the nomination of Judge Sonia Sotomayor to the U.S. Supreme Court. It is not merited by either Judge Sotomayor's record or hearing testimony.

In their letter, they point out that at her hearing Judge Sotomayor ''emphasized that she has an 'open mind' on the question of incorporation and 'has not prejudged' the issue.''

In fact, they said:

> Judge Sotomayor has said more than either of the two previous Supreme Court nominees about the Second Amendment—specifically, she said that it confers an individual right, as recognized by the Supreme Court in its Heller decision.

The letter continues: ''Even more troubling, it appears you are holding Judge Sotomayor to a different standard than you held Judges Roberts and Alito when they were nominated to the Court, or for that matter, any previous nominee to the Court. The double standard you have set for Judge Sotomayor is a disservice to all members of the NRA, particularly those who are Hispanic'' and that ''we are mystified as to why the NRA is characterizing Judge Sotomayor as hostile to the rights of gun owners and evaluating Judge Sotomayor by a different standard than that to which you have held previous Supreme Court nominees.''

I think it is a double standard. When Justices Roberts and Alito were nominated by a Republican President, Republicans did not have this standard. When this woman was nominated by a Democratic President, suddenly they change the standard. All I am saying is, they ought to follow the same standards they followed when President Bush nominated the two men he did now, when President Obama has nominated this woman to the Supreme Court.

Madam President, I ask unanimous consent to have printed in the RECORD letters of support for Judge Sotomayor from a large number of prosecutors, including the National District Attorneys Association.

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

NATIONAL BLACK PROSECUTORS ASSOCIATION,
Chicago, IL, July 9, 2009.

Senator PATRICK J. LEAHY,
Chairman, Senate Judiciary Committee, Russell Senate Office Bldg., Washington DC.
Senator JEFF SESSIONS,
Ranking Member, Senate Judiciary Committee, Russell Senate Office Bldg., Washington DC.

DEAR SENATORS LEAHY AND SESSIONS: On behalf of the National Black Prosecutors Association, representing local, state and Federal African American prosecutors, it is my pleasure to endorse the nomination of Judge Sonia Sotomayor to the position of Associate Justice of the United States Supreme Court. It is noteworthy to mention that she will be this nation's third female and first Latina United States Supreme Court Justice. I highlight Justice Sotomayor's gender and ethnicity only to point out that it is shocking that in its 220 year history, the United States Supreme Court has previously had only two female justices, and never a Hispanic justice. It is well overdue that qualified female nominees of varying ethnicities be seriously considered for service on the United States Supreme Court

Despite the adversity of being diagnosed with Type I diabetes and shortly thereafter losing her father at the age of nine, Judge Sotomayor was a scholastic achiever throughout her elementary and high school years. While at Princeton University, she fought for increased opportunities for Puerto Rican students and to diversify the University's faculty and curriculum. After graduating summa cum laude, she entered Yale Law School, where she became the editor of the Yale Law Journal.

We applaud Judge Sotomayor's distinguished career in public service, which began with her service as a Manhattan Assistant District Attorney. As a trial attorney, Judge Sotomayor honed her skills, gaining firsthand experience with the real world of crime, pursuing justice for the victims of violent crimes. She was firm but fair as a United States District Court Judge, exhibiting a great respect and understanding of the United States Constitution and its application in the twenty-first century. The opinions she has authored since becoming a judge on the Court of Appeals in 1997 clearly show that she respects the law and hews close to precedent. Judge Sotomayor's opinions are marked by a clear recitation of the facts and lengthy recitation of the law that she believed to be applicable to the case. In short, Judge Sotomayor's opinions are akin to a road map; one can easily discern where she started in her analysis, where she ended up, and how she got there. This is all one can ask from an impartial jurist; not that you will always agree with the conclusion of a justice, but that issues, arguments and parties will receive a fair hearing, and the final determination can be easily tracked and understood.

Judge Sonia Sotomayor's background, life experiences, and accomplishments despite the odds are compelling to say the least. Her intellect, respect for the law and ability to be impartial more importantly would mean that this country would have a Supreme Court Justice that would, without hesitation, examine issues and reach conclusions based on an interpretation of the law and constitutional principles. This country needs a Justice is sensitive to the law's impact on everyday life.

Sincerely,

CARMEN M. LINEBERGER,
President.

JULY 2, 2009.

Hon. PATRICK J. LEAHY,
Chairman, U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.
Hon. JEFF SESSIONS,
Ranking Member, U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS: As former colleagues of the Honorable Sonia Sotomayor during her years as a prosecutor in the Office of the New York County District Attorney, we write to express our wholehearted support for her nomination to the United States Supreme Court.

We served together during some of the most difficult years in our City's history. Crime was soaring, a general sense of disorder prevailed in the streets, and the popular attitude was that increasing violence was inevitable. It was in this setting that Sonia decided to start her career, not in a judge's chambers or at a high-powered law firm, but rather in the halls of New York's Criminal Courts, as an assistant district attorney.

She began as a ''rookie'' in 1979, working long hours prosecuting an enormous caseload of misdemeanors before judges managing overwhelming dockets. Sonia so distinguished herself in this challenging assignment that she was among the very first in her starting class to be selected to handle felonies. She prosecuted a wide variety of felony cases, including serving as co-counsel at a notorious murder trial. She developed a specialty in the investigation and prosecution of child pornography cases. Throughout all of this, she impressed us as one who was singularly determined in fighting crime and violence. For Sonia, service as a prosecutor was a way to bring order to the streets of a City she dearly loves. At the same time, she had an abiding sense of justice that spoke of the traditions of an Office headed by Thomas Dewey, Frank Hogan and Robert Morgenthau.

Few of us can forget her careful and painstaking jury selection. As diligently as she prepared her cases, she also readied her juries to evaluate the evidence and apply the facts to the law as they were instructed by the judge. As any trial lawyer knows, this is no easy task. Sonia emphasized that it is both a privilege and a duty to sit on a case, and jurors must do so without bias or prejudice.

We are proud to have served with Sonia Sotomayor. She solemnly adheres to the rule of law and believes that it should be applied equally and fairly to all Americans. As a group, we have different world views and political affiliations, but our support for Sonia is entirely non-partisan. And the fact that so many of us have remained friends with Sonia over three decades speaks well, we think, of her warmth and collegiality.

We urge all Senators to approve Sonia's nomination, as our country will be better off with Judge Sotomayor sitting on our nation's highest court.

Thank you for your consideration.

Sincerely,

Steven M. Rabinowitz, Marc J. Citrin, John W. Fried, Thomas Demakis, Rubie A. Mages, John Lenoir, Ted Poretz, Mike Cherkasky, Joseph Ortego, Steven Fishner.

Irving Hirsch, Jerry Neugarten, Fred Biesecker, Annette Sanderson, Jackie Hilly, Jessica DeGrazia, Maureen Barden, Deborah Veach, Vivian Berger, Maurice Mathis.

Susan Gliner, Elizabeth Lederer, Frank Munoz, Isabelle Kirshner, Richard Girgenti, Peter Kougasian, Nancy Gray, Jason Dolin, William Tendy, Patrice M. Davis.

Jose Diaz, Scott Sherman, Peter Zimroth, James Warwick, Stephen L. Dreyfuss, Consuelo Fernandez, Jeff Schlanger, Richard H. Girgenti, John Moscow, Eugene Porcarco, Kim H. Townsend.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION,
Alexandria, VA, June 8, 2009.

Hon. PATRICK LEAHY,
Chairman,
Hon. JEFF SESSIONS,
Ranking Member,
Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR LEAHY AND RANKING MEMBER SESSIONS: On behalf of the National District Attorneys Association, the oldest and largest organization representing America's state and local prosecutors, we offer our full support for the nomination of the Honorable Sonia Sotomayor to become the next Associate Justice of the United States Supreme Court.

Because state and local prosecutors handle 95 percent of the criminal prosecutions nationally, rulings by the Supreme Court have far-reaching, serious impacts upon criminal cases in state courthouses across the country. As former prosecutors yourselves, you have a unique appreciation of our concerns.

We practice where the law is truly tested: not in the deliberative atmosphere of an appellate courtroom, but on the streets where police must make split-second choices in dangerous situations and in trial court situations that sometimes give prosecutors and police only a moment to analyze and react. It is important to the National District Attorneys Association, and to the tens of thousands of prosecutors we represent, that the next Supreme Court justice be well steeped in the law and its practical applications.

I have had the opportunity to review the judicial record of Judge Sotomayor, particularly in areas important to prosecutors such as criminal and constitutional law. Through her rulings, Judge Sotomayor reveals a deep understanding of the law. As a prosecutor, I find her to employ a thoughtful analysis of legal precedent and the rule of law and apply that law to the specific facts of each case.

Just as important as her sophisticated knowledge of the law, as a former prosecutor and trial court judge Judge Sotomayor displays an understanding of the impact of those laws on law enforcement, victims and defendants. In interviews with prosecutors who served with Judge Sotomayor in the Manhattan District Attorney's office, Judge Sotomayor has often been described as a ''tough and fearless'' prosecutor. She vigorously and effectively prosecuted child pornographers, murderers, burglars and many other ''street crimes'' in the heart of New York City. She worked closely with law enforcement, deconstructed complex crimes, interviewed witnesses and investigated crime scenes. That kind of legal experience, combined with her 17 years on the federal bench, provide Judge Sotomayor with unique and unprecedented qualifications to be on the Supreme Court.

Judge Sotomayor's depth of experience with all aspects of the law—as a prosecutor, a private litigator, a District Court Judge and as a Federal Judge—has made her into an exemplary judge and an outstanding nominee to serve on our nation's highest court. She possesses wisdom, intelligence and a real world training that would bring important insight to Supreme Court decisions. The National District Attorneys Association believes that Judge Sotomayor would be a welcome addition to the Supreme Court.

We are happy to offer our full support for Judge Sotomayor's nomination to serve as a

Supreme Court Associate Justice and encourage her swift nomination by the Senate.

Sincerely,

JOSEPH I. CASSILLY,
President.

JULY 10, 2009.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. JEFF SESSIONS,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: On behalf of the Association of Prosecuting Attorneys (APA), we offer our support to the Honorable Sonia Sotomayor's nomination to become the next Associate Justice of the United States Supreme Court. APA is a national ''think tank'' that represents all prosecutors and provides additional resources such as training and technical assistance in an effort to develop proactive innovative prosecutorial practices that prevent crime, ensures equal justice and makes our communities safer.

Judge Sotomayor's proven record as a prosecutor, private litigator, District Court Judge and Federal Appellate Judge has shown her dedication to the law, equality of justice and ensuring safer communities. Her distinguished tenure as a Federal District Court Judge would bring additional insight about the trial process to the Supreme Court.

Judge Sotomayor, with her trial experience as both a trial judge and prosecutor, would bring practical experience to the highest court in the land. Therefore, the APA fully supports Judge Sotomayor's nomination to the Supreme Court and we urge her confirmation.

Respectfully submitted,

GLENN F. IVEY,
Chairman of the Board of Directors, Association of Prosecuting Attorneys.
DAVID R. LABAHN,
President and CEO, Association of Prosecuting Attorneys.

Mr. LEAHY. Madam President, I ask unanimous consent to have printed in the RECORD letters of support for Judge Sotomayor from a broad cross section of law enforcement agencies, including the National Association of Police Organizations, the National Sheriffs' Association, and the Sheriff of the Los Angeles County Sheriff's Department.

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

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.,
Alexandria, VA, June 5, 2009.

Re Endorsement of Judge Sonia Sotomayor for the Untied States Supreme Court.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. JEFF SESSIONS,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: On behalf of the National Association of Police Organizations (NAPO), representing more than 241,000 law enforcement officers throughout the United States, I am writing to advise you of our endorsement of the nomination of Judge Sonia Sotomayor for the United States Supreme Court.

Throughout her distinguished career spanning three decades, Judge Sotomayor has worked at almost every level of our judicial system, giving her a depth of experience and knowledge that will be valuable on our nation's highest court. After five years as the Assistant District Attorney in Manhattan, she went into private practice in 1984 to become a corporate litigator. In 1991, she began her career as a federal judge with her nomination to the United States District Court by President Bush. In 1992, she was promoted to the United States Appeals Court for the Second Circuit by President Clinton, where she has served for the past eleven years.

Through her years of trial experience as an Assistant District Attorney, Judge Sotomayor gained an understanding of what law enforcement officers go through day to day in their jobs. Her familiarity with criminal procedure and qualified immunity are evident in the rulings and findings she has issued during her seventeen year career as a federal judge. Judge Sotomayor has shown that as a jurist she has a keen awareness of the real-world implications of judicial rulings, an important aspect when it comes to evaluating the actions of law enforcement officers and to keeping officers and the communities they serve safe.

As a Supreme Court Justice, NAPO believes Judge Sotomayor's extensive experience in the judicial system and the knowledge she has gained as a prosecutor and judge will serve our nation well. Therefore, we urge you to confirm the nomination of Judge Sonia Sotomayor for the United States Supreme Court. If you have any questions, please feel free to contact me, or NAPO's Executive Director, Bill Johnson.

Sincerely,

THOMAS J. NEE,
President.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, June 8, 2009.

Hon. PATRICK J. LEAHY,
Chair,
Hon. JEFF SESSIONS,
Ranking Member, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: On behalf of the National Sheriffs' Association, we are writing to express our support for the nomination of Sonia Sotomayor to be the Associate Justice of the United States Supreme Court.

As you know, in most jurisdictions, sheriffs have several responsibilities in the criminal justice system including law enforcement and the administration of our jails. Because of the sheriff's role in enforcing the law and administering the jails, there are many occasions where the sheriffs duties are directly impacted by the actions of the United States Supreme Court. Sheriffs across the country can recite examples in our communities, where criminals have gone free because of technicalities. In many cases, an overriding problem for law enforcement throughout the United States has been the courts—on the federal, state and local level.

Because of the critical role that the court plays in our criminal justice system, the National Sheriffs' Association is urging the Senate to confirm Judge Sotomayor who we believe has the qualifications, judicial philosophy and commitment to interpreting the Constitution with an abiding sense of fairness and justice.

Judge Sonia Sotomayor's real world experience as a prosecutor who pursued justice for victims of violent crimes as well as a federal judge at both the district and circuit court levels with an unassailable integrity make her an ideal nominee to serve on the Supreme Court. We believe her judicial philosophy in criminal justice to be sound and support her common sense approach in reviewing criminal cases.

As one of the largest law enforcement organizations in the nation, the National Sheriffs' Association is calling on the United States Senate to approve Sonia Sotomayor to be the next Associate Justice of United States Supreme Court.

Respectfully,

SHERIFF DAVID A. GOAD,
President.
AARON D. KENNARD,
Executive Director.

COUNTY OF LOS ANGELES,
SHERIFF'S DEPARTMENT HEADQUARTERS,
Monterey Park, CA, July 7, 2009.

Reconfirmation of Judge Sonia Sotomayor to the United States Supreme Court.

Hon. PATRICK LEAHY,
Chairman, Senate Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: As Sheriff of the Los Angeles County Sheriff's Department, which is the largest Sheriff's Department in the country in one of the most diverse counties in the world, I support the confirmation of Judge Sonia Sotomayor as a United States Supreme Court Associate Justice and, respectfully, urge your Committee to support her nomination.

As you know, Judge Sotomayor has had the gamut of legal experience beginning with her legal education from Yale University. Judge Sotomayor's work as an Assistant District Attorney for the New York County District Attorney's Office and her work in private practice, led to her nomination by President George H.W. Bush to the United States District Court for the Southern District of New York, for which she was confirmed by the United States Senate. She served in that capacity until President Bill Clinton nominated her to the United States Court of Appeals for the Second Circuit, followed by her second Senate confirmation.

Judge Sotomayor possesses all the traits important for service on the United States Supreme Court Her educational background, diverse legal experience, and personal story have all contributed to her current success and will continue to positively shape her future on the United States Supreme Court.

Judge Sotomayor is an excellent nominee for Associate Supreme Court Justice. I am confident that confirmation of her nomination would be a great step forward for our Supreme Court and our Country. Thank you for your service to our Country and making these critical decisions that profoundly impact our Democracy. Should you have any questions, do not hesitate to contact me.

Sincerely,

LEROY D. BACA,
Sheriff.

NATIONAL LATINO PEACE OFFICERS ASSOCIATION,
Santa Ana, CA, May 26, 2009.

Re Honorable Sonia Sotomayor.

President BARACK OBAMA,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing on behalf of the men and women of the National Latino Peace Officers Association (NLPOA) to unanimously support the appointment of the Honorable Sonia Sotomayor, Judge with the United States Court of Appeals for the Second District, as the next Justice of the Supreme Court of the United States.

The NLPOA supports Judge Sonia Sotomayor because she has a long and distinguished career on the federal bench as well as having the depth and breadth of legal experience of all levels of the judicial system. She brings a lifelong commitment to

equality, justice, and opportunity, and has earned the respect of all her colleagues being in one of the most demanding appeals circuits in America; the Second Circuit.

She brings excellent credentials to this position, with a Juris Doctorate from Yale Law and completing her undergraduate work at Princeton, graduating summa cum laude. With over 30 years experience in handling a wide range of substantial civil and criminal cases, Judge Sotomayor has a distinguished record of professional accomplishments as judge, prosecutor, and community leader.

The NLPOA enthusiastically supports Judge Sonia Sotomayor as the next Supreme Court Justice of the United States of America.

If you have a need for additional information please feel free to contact me.

Respectfully,

ART ACEVEDO,
National President.

NEW YORK STATE LAW ENFORCEMENT COUNCIL

The New York State Law Enforcement Council congratulates President Obama on his nomination of Judge Sonia Sotomayor to the United States Supreme Court. Judge Sotomayor is well known to us from her career as a prosecutor and as a federal judge. She is an extremely able jurist and an exceptional individual. The interests of the nation will be well served when she assumes her seat on the Supreme Court.

WASHINGTON, DC,
June 8, 2009.

Hon. PATRICK LEAHY, Chairman,
Hon. JEFF SESSIONS, Ranking Member,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATORS LEAHY AND SESSIONS, I am writing in support of President Obama's nomination of Judge Sonia Sotomayor to serve as associate justice of the Supreme Court of the United States. I believe that Judge Sotomayor's inspiring life story, and especially her experience as a prosecutor in New York City, where I spent most of my career, demonstrate a strength of character that will serve her well on our nation's highest court.

Judge Sotomayor grew up in a housing project in the South Bronx. I patrolled the streets of the South Bronx in the 1970s and know what a tough environment that was. I did not have the privilege of working with Assistant District Attorney Sotomayor, but recently I have spoken to several of my colleagues who did work with her, and they give her nothing but rave reviews. They were impressed with her intelligence, her strong work ethic, and her fierce determination to prosecute criminals, and they use words like ''salt of the earth'' to describe her.

I believe it is important to note that in the questionnaire that she filled out for the Judiciary Committee, Judge Sotomayor included several criminal cases from her years as a prosecutor in a list of the 10 litigated matters in her career that she considers ''most significant.'' These include the case of the so-called ''Tarzan murderer,'' as well as a child pornography case that Ms. Sotomayor pursued relentlessly when others seemed to consider it a low priority.

Like many others, I have been inspired by Judge Sotomayor's personal story. Through hard work and determination, she earned degrees from Princeton and the Yale Law School. After getting her law degree, she could have cashed in at a blue-chip law firm, but she chose instead to take a low-paid position in the Manhattan District Attorney's office, where she gained priceless real-world experience that cannot help but inform her judgment as she decides criminal cases that come before her.

Sonia Sotomayor went out of her way to stand shoulder to shoulder with those of us in public safety at a time when New York City needed strong, tough, and fair prosecutors. I am confident that she will continue to bring honor to herself, and now to the Supreme Court, when she is confirmed for this critically important position.

Thank you for your consideration.

Sincerely,

JOHN F. TIMONEY,
Chief of Police, Miami, Florida,
President, Police Executive Research Forum.

Mr. LEAHY. I urge each Senator to vote his or her own conscience in connection with this historic nomination.

EXHIBIT 1

CONGRESS OF THE UNITED STATES,
Washington, DC, July 24, 2009.

WAYNE LAPIERRE,
Executive Vice President, National Rifle Association of America, Fairfax, VA.
CHRIS COX,
Executive Director, National Rifle Association of America, Fairfax, VA.

DEAR MESSRS. LAPIERRE AND COX: As Members of Congress whose strong support for the rights of gun owners has earned us consistently high ratings from the NRA, we are disappointed by the NRA's opposition to the nomination of Judge Sonia Sotomayor to the U.S. Supreme Court. It is not merited by either Judge Sotomayor's judicial record or hearing testimony. Even more troubling, it appears that you are holding Judge Sotomayor to a different standard than you held Judges Roberts and Alito when they were nominated to the Court, or for that matter, any previous nominee to the Court. The double standard you have set for Judge Sotomayor is a disservice to all members of the NRA, particularly those who are Hispanic.

We support the confirmation of Judge Sotomayor. She is eminently qualified by her experience as a prosecutor, district judge and 12 years on the Second Circuit Court of Appeals. Her judicial record is one marked by modesty and restraint, prompting the New York Times to write that her ''judicial opinions are marked by diligence, depth and unflashy competence'' and are ''models of modern judicial craftsmanship, which prizes careful attention to the facts in the record and a methodical application of layers of legal principles.'' (Adam Liptak, ''Nominee's Rulings Are Exhaustive But Often Narrow,'' May 26, 2009). And we believe that the historic act of putting the first Hispanic Justice on the Court, particularly one so well qualified for the job, is an important step for our country.

Judge Sotomayor has said more than either of the two previous Supreme Court nominees about the Second Amendment—specifically, she said that it confers an individual right, as recognized by the Supreme Court in its Heller decision. Judge Sotomayor was then asked repeatedly to discuss her position on incorporation, even though there is now a circuit split on the issue and there are petitions pending asking the Supreme Court to take the issue. Judges are prohibited by ABA rules from commenting on pending cases, making it inappropriate for Judge Sotomayor to state a definitive view. Nonetheless, at the hearing on her nomination, she emphasized that she has an ''open mind'' on the question of incorporation and has ''not prejudged'' the issue.

Conversely, when now-Chief Justice Roberts testified at his confirmation hearing facing a similar circuit split prior to the Heller decision on the issue of the individual right to bear arms, he declined to discuss the issue at all, saying only: ''That's sort of the issue that's likely to come before the Supreme Court when you have conflicting views.'' And now-Justice Alito was not even asked a question about the subject. Yet the NRA voiced no opposition to these candidates who were less forthcoming on issues of importance to us.

Your letter cites two cases as evidence that Judge Sotomayor is hostile to the Second Amendment. Your analysis of those cases is either mistaken or deliberately misleading.

United States v. Sanchez-Villar, on which Judge Sotomayor was a member of the panel, was decided in 2004, four years before the Supreme Court's landmark decision in District of Columbia v. Heller. That decision was consistent not just with 2nd Circuit precedent, but with the weight of authority at the time; in 2004, every circuit but the Fifth that had considered the question had similarly concluded that the Second Amendment did not protect an individual right. Your letter fails to mention either fact.

Your characterization of Maloney v. Cuomo is similarly erroneous. First, Maloney did not involve firearms at all. The degree to which it was not considered an important case at the time can be gleaned from the fact that no outside entity or organization, including the NRA, filed an amicus brief in that case, in contrast to the multiple amici filed in National Rifle Association v. City of Chicago.

Second, the Maloney court did not reject the concept of incorporation; it recognized the prerogative of the Supreme Court, which in Heller explicitly did not overrule prior precedent on incorporation. The panel wrote, ''[w]here, as here, a Supreme Court precedent has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to the Supreme Court the prerogative of overruling its own decisions.''

Two of the most renowned conservative jurists in the country, Judges Posner and Easterbrook of the Seventh Circuit Court of Appeals, recently endorsed the Second Circuit panel opinion in Maloney. In National Rifle Association v. City of Chicago, Judge Easterbrook's opinion explicitly stated that the court ''agree[d] with Maloney.''

Even Mr. Maloney himself said the decision in this case was appropriate: ''I did not expect to win . . . it was clear to me that they had a very solid basis for saying that the Second Amendment is not incorporated and that essentially they are powerless to do anything about it, they had a defensible position there.'' Mike Pesca, ''High Court May Review Personal Weapons Ruling,'' NPR Legals Affairs, June 1, 2009.

In conclusion, we are mystified as to why the NRA is characterizing Judge Sotomayor as hostile to the rights of gun owners and evaluating Judge Sotomayor by a different standard than that to which you have held previous Supreme Court nominees. We are concerned that your opposition will alienate Hispanic NRA members and dismayed that you may unnecessarily force some well-intentioned Senators to choose between disappointing the NRA or infuriating their Hispanic constituents. We hope that you will reconsider your position on Judge Sotomayor.

Sincerely,

JOE BACA,
SILVESTRE REYES,
SOLOMON P. ORTIZ,
JOHN T. SALAZAR.

Mr. LEAHY. Madam President, I see Senator LINCOLN on the floor, one of my most distinguished colleagues, and I yield to her.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mrs. LINCOLN. Madam President, I thank the chairman of the Judiciary Committee. He is a good and trusted friend, and I appreciate all the hard work he and all of our colleagues on the Judiciary Committee have done and all the efforts they have put into this nomination and hearing process.

I rise today to discuss what I think is one of the most consequential and long-lasting decisions in the duties a Senator can perform under the Constitution—the confirmation of a U.S. Supreme Court Justice. It is a rare practice, so rare, in fact, that my consideration of the nomination of Judge Sonia Sotomayor will mark only the third Supreme Court nomination I will have considered since I was first elected to the Senate in 1998.

Even though the President today making this Supreme Court nomination has changed from the previous two nominees, as the chairman of the Judiciary Committee has mentioned, my standards and the standards of any of us for evaluating a nominee have not changed, nor should they have changed.

I believe the people of Arkansas, our great State, and certainly our Nation deserve a Supreme Court Justice who is able to interpret and apply the rule of law fairly without political favor or bias. Ensuring that a nominee meets this standard is an obligation I have sworn to uphold as a Senator and, moreover, is the standard I expect for a lifetime appointment to our Nation's highest Court.

In making my decision about Judge Sotomayor, I have taken a number of factors into account in evaluating her qualifications for serving on our Nation's highest Court.

First among these are the opinions of my constituents in my home State of Arkansas, including those in the legal community. I have heard from a number of Arkansans who have expressed strong support for Judge Sonia Sotomayor, emphasizing her unique background, impressive resume, and solid judicial record.

I also gained a lot of insight when we met at length in June. I was able to learn firsthand about who she is as a person, her temperament, and her unique life experiences—all of which I believe will help give her the ability to give every litigant who comes before the Supreme Court a fair shake.

Arkansans can readily identify with her because Judge Sotomayor is no stranger to hard work. She was born in New York, and is the daughter of parents who came to the United States from Puerto Rico. After her father died, when she was young, Judge Sotomayor was raised by her mother, a nurse, a hard-working woman with tremendous values. She went on to become valedictorian of her high school, a member of Phi Beta Kappa at Princeton, and editor of the Law Review at Yale Law School.

She has a breadth of professional experience, having served as an assistant district attorney and in private practice before beginning her 17 years serving as a Federal judge. She has a long history, and, again, one that starts with hard work and dedication to hard work.

Arkansas is known for its ability to grow self-made Americans, and those are Americans who are no strangers to hard work. They understand what is involved in putting into who you are, and what you are trying to become, and what it is you want to achieve on behalf of others.

Judge Sotomayor even told me in our personal meeting that she had entered her practice in real estate and business law because she had a great appreciation for business and the industries of this great country and she wanted to increase her knowledge of corporate law and broaden her experience.

Moreover, I was impressed during our meeting with her eagerness to learn more about Arkansas and her attentiveness to what issues were most important to my constituents in my home State of Arkansas.

The Senate Judiciary Committee hearings also provided me with an opportunity to learn about her record and judicial philosophy. I was able to monitor the hearings and watch her performance under intense scrutiny and pressure, and I was impressed with her knowledge, her composure, and her candor.

Given the weight of this decision and the responsibilities I have to my constituents and my country, I have carefully examined the information available about Judge Sotomayor's nomination and am ready to announce I will support Judge Sonia Sotomayor for the U.S. Supreme Court.

I have confidence, as she made clear through the committee hearings, that she understands a judge's obligation is first and foremost a ''fidelity to the law.''

As the chairman of the Judiciary Committee mentioned earlier, I was raised as an avid duck hunter and a gun owner. Gun ownership is a unique part of my State's heritage. I was pleased to hear Judge Sotomayor made a promise before the Senate Judiciary Committee to have an open mind on the issue of the second amendment and to understand what it means in terms of our rights as American citizens.

In response to questioning, Judge Sotomayor expressed caution in declaring how she would rule on an unsettled constitutional issue likely to come before the Supreme Court before hearing the arguments and studying the opinions before her. I would have been concerned about a nominee who had already made up their mind about an unsettled legal issue that is likely to come before the Court. Her responsibility is to not come in there prejudging or predetermined in her decisions, but to come to the Court with an open mind.

Based on her substantial record, serving on two courts, I am satisfied Judge Sotomayor will give future cases involving the second amendment and the rights of Americans to own firearms for recreation and self-protection a very fair hearing. I am also satisfied that her past rulings on these issues follow precedent and fall within the judicial mainstream.

And I think Senator SESSIONS mentioned some of that in his comments in terms of being judicial mainstream.

Overall, I appreciated Judge Sotomayor's approach to the judiciary hearings and her willingness to respond to questions from Senators on both sides of the aisle on many important topics.

Based on her answers, I believe Judge Sotomayor cares more about following the law and maintaining the respect for the judiciary than she does about politics and ideology.

As Judge Sotomayor stated:

> The task of a judge is not to make law. It is to apply the law.

Finally, I have again searched my conscience and reflected on my principles as a Senator for the people of the great State of Arkansas, using my experiences a legislator both here and in the House of Representatives and also as a farmer's daughter, my experience as a wife, a mother, a neighbor, to evaluate a decision of such great weight.

It has become apparent to me Judge Sotomayor does meet the test to serve in our Nation's highest Court. I base this conclusion on the respect and support she has earned from those in my home State, colleagues on both sides of the aisle who know her well, on the evidence and the record from her own comments and those of her colleagues, that she has had an abiding respect for the Court's decisions, and that she understands the value of continuity in our law.

We also see the support from industry representatives, such as the Chamber of Commerce, as well as labor organizations. The Senate Judiciary Committee received a letter of support for Judge Sotomayor's nomination from the U.S. Chamber of Commerce, the world's largest business federation, representing businesses and organizations of every size, sector, and region.

The U.S. Chamber wrote, in their letter:

> Pursuant to our long-standing endorsement policy, the Chamber evaluated Judge Sotomayor's record from the standpoint of legal scholarship, judicial temperament, and an understanding of business and economic issues. Based on the Chamber's evaluation of her judicial record, Judge Sotomayor is well-qualified to serve as an Associate Justice of the U.S. Supreme Court.
>
> Her extensive experience both as a commercial litigator and as a trial judge would provide the U.S. Supreme Court with a much needed perspective on the issues that business litigants face. Consistent with her Senate testimony, the Chamber expects Judge Sotomayor to engage in fair and evenhanded application of the laws affecting American businesses.

Madam President, I ask unanimous consent that the letter to the Senate

Judiciary Committee from the Chamber of Commerce be printed in the RECORD.

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

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, July 23, 2009.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. JEFF SESSIONS,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, announced today its support of the nomination of Judge Sonia Sotomayor to serve on the U.S. Supreme Court. The Chamber urges members of the Senate Judiciary Committee to vote in favor of reporting Judge Sotomayor's nomination for consideration by the full Senate.

Pursuant to our long-standing endorsement policy, the Chamber evaluated Judge Sotomayor's record from the standpoint of legal scholarship, judicial temperament, and an understanding of business and economic issues. Based on the Chamber's evaluation of her judicial record, Judge Sotomayor is well-qualified to serve as an Associate Justice of the U.S. Supreme Court. Her extensive experience both as a commercial litigator and as a trial judge would provide the U.S. Supreme Court with a much needed perspective on the issues that business litigants face. Consistent with her Senate testimony, the Chamber expects Judge Sotomayor to engage in fair and evenhanded application of the laws affecting American businesses.

The Chamber urges your support of Judge Sonia Sotomayor as Associate Justice of the United States.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President, Government Affairs.

Mrs. LINCOLN. Madam President, I do believe Judge Sotomayor will make an excellent Supreme Court Justice and she will give all who come before the Court on which she is poised to serve a fair hearing and the attention and respect they deserve. So in this very important decision that each of us as Senators must make, I am proud to be able to support her nomination.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, once again, the Senate is being called upon to do its constitutional duty to consider a nomination to the U.S. Supreme Court. Positions on the Supreme Court are hugely significant given their lifetime tenures and the impact of the Court's decisions on the lives of Americans. Our votes on Supreme Court nominees are among the most significant that we cast.

I commend Chairman LEAHY for the extraordinarily thorough and fair hearings the Judiciary Committee held on this nomination. It has given us a very extensive record upon which we can base our judgment. I have reviewed the nominee's qualifications, temperament, and background to determine if she is likely to bring to the Court an ideology that distorts her legal judgment or brings into question her openmindedness. I believe it is clear that Judge Sotomayor satisfies the essential requirements of openmindedness and judicial temperament, and her decisions as a judge fall well within the mainstream of our jurisprudence.

Judge Sotomayor's judicial career has received bipartisan support. She was nominated first to the district court in the Southern District of New York by President George H.W. Bush. The Senate confirmed her nomination. President Clinton nominated Judge Sotomayor to be a circuit court judge, and the Senate overwhelmingly confirmed her nomination to that position.

The American Bar Association Standing Committee evaluated Judge Sotomayor and interviewed more than 500 judges, lawyers, law professors, and community representatives from across the United States. They analyzed Judge Sotomayor's opinions, speeches, and other writings. They read reports of Reading Groups comprised of recognized experts in the substantive areas of the law that they reviewed, and they conducted an in-depth personal interview of the nominee. In the words of the committee:

> The Standing Committee's investigation of a nominee for the United States Supreme Court is based upon the premise that the nominee must possess exceptional professional qualifications. The significance, range, and complexity and nation-wide impact of issues that such a nominee will confront on the Court demands no less.

After that extensive investigation, the American Bar Association gave Judge Sotomayor their highest rating unanimously, rating her ''well qualified.''

Some colleagues have expressed concern over the differences in language and ideas they thought they observed in Judge Sotomayor while sitting as a judge in the courtroom and as a citizen outside the courtroom. For example, one colleague put it this way during Judge Sotomayor's confirmation hearing:

> I want to ask your assistance this morning to try to help us reconcile two pictures that I think have emerged during the course of this hearing. One is, of course, as Senator SCHUMER and others have talked about, your lengthy tenure on the Federal bench as a trial judge and court of appeals judge. And then there's the other picture that has emerged that—from your speeches and your other writings.

Our colleague went on to say the following:

> I actually agree that your judicial record strikes me as pretty much in the mainstream of judicial decision-making by district court judges and by court of appeals judges on the Federal bench.

And he said in conclusion then:

> I guess part of what we need to do is to reconcile those—

Referring to the two different pictures he had.

Let's assume for a moment there is a difference between Judge Sotomayor's rulings in the courtroom and those personal views she expressed outside of the courtroom. If so, aren't we looking for people who can apply the law on the bench, even if he or she has a different personal opinion? At the end of the day, we want our judges to leave their personal views outside of the courtroom. That is the essence of an impartial judiciary. In other words, Judge Sotomayor has demonstrated the very trait that she is accused by some of lacking: the ability to leave her personal opinions at the courthouse door.

The Congressional Research Service has analyzed Judge Sotomayor's record and has concluded the following:

> Perhaps the most consistent characteristic of Judge Sotomayor's approach as an appellate judge has been an adherence to the doctrine of stare decisis (i.e, the upholding of past judicial precedents). Other characteristics appear to include what many would describe as a careful application of particular facts at issue in a case and a dislike for situations in which the court might be seen as overstepping its judicial role.

Well, that is the opposite of an activist judge imposing her views despite the law.

We all have personal views and sympathies. Some judges, regrettably, can't lay those aside when making their judicial calls. Judge Sotomayor has proven in her judicial career that she can, while faithfully applying the principles of the U.S. Constitution.

So today, once again, the U.S. Senate is being called upon to do its constitutional duty and consider a nomination to the U.S. Supreme Court. Positions on the Supreme Court are hugely significant given their lifetime tenures and the impact of the Court's decisions on the lives of Americans. Our votes on Supreme Court nominees are among the most significant that we cast.

Article II, section 2 of the Constitution simply provides that: ''[The President] shall nominate, and by and with the Advice and Consent of the Senate shall appoint . . . Judges of the Supreme Court . . . Without specific constitutional guidance, each senator must determine what qualities he or she thinks a Supreme Court Justice should have, and what scope of inquiry is necessary to determine if the prospective nominee has these qualities.

This will be the twelfth Supreme Court nomination on which I will have voted. Each time, I have reviewed the nominee's qualifications, temperament and background to determine if the nominee is likely to bring to the court an ideology that distorts his or her legal judgment or brings into question his or her open-mindedness. I believe that Judge Sotomayor satisfies the essential requirements of open-mindedness and judicial temperament and her decisions as a judge fell well within the mainstream of our jurisprudence.

Judge Sotomayor graduated as valedictorian of her class at Blessed Sacrament and at Cardinal Spellman High School in New York. She continued to excel at Princeton University, graduating summa cum laude, and Phi Beta

Kappa. She was a corecipient of the M. Taylor Pyne Prize, the highest honor Princeton awards to an undergraduate. At Yale Law School, Judge Sotomayor served as an editor of the Yale Law Journal.

In her 30-year legal career, Judge Sotomayor has been a Federal circuit and trial court judge, a civil commercial litigator in private practice, and a State prosecutor. She served as an assistant district attorney in the New York County District Attorney's Office and later worked in private practice.

Judge Sotomayor's judicial career has received bipartisan support. During the 102nd Congress, President George H.W. Bush nominated Judge Sotomayor to be a district judge on the Southern District of New York. On August 11, 1992, the Senate confirmed her nomination.

During the 105th Congress, President Bill Clinton nominated Judge Sotomayor to be a circuit judge on the United States Court of Appeals for the Second Circuit. On October 2, 1998, the Senate confirmed her nomination by a vote of 67–29.

On May 26, 2009, President Obama nominated Judge Sotomayor to be Associate Justice of the Supreme Court to fill the seat left vacant by the departure of Justice David Souter. Recently, the American Bar Association Standing Committee evaluated Judge Sotomayor and interviewed more than 500 judges, lawyers, law professors and community representatives from across the United States; they analyzed Judge Sotomayor's opinions, speeches and other writings; read reports of reading groups comprised of recognized experts in the substantive areas of the law that they reviewed; and conducted an in-depth personal interview of the nominee. In the words of the committee:

> The Standing Committee's investigation of a nominee for the United States Supreme Court is based upon the premise that the nominee must possess exceptional professional qualifications. The significance, range, complexity and nation-wide impact of issues that such a nominee will confront on the Court demands no less.

After that extensive investigation, the American Bar Association gave Judge Sotomayor their highest rating, unanimously rating her ''well qualified.''

Some colleagues have expressed concern over the differences in language and ideas they observed in Judge Sotomayor while sitting as a judge in the courtroom, and as a citizen outside of the courtroom. For example, one colleague put it this way during Judge Sotomayor's confirmation hearing,

> I want to ask your assistance this morning to try to help us reconcile two pictures that I think have emerged during the course of this hearing. One is, of course, as Senator SCHUMER and others have talked about, your lengthy tenure on the federal bench as a trial judge and court of appeals judge.
>
> And then there's the other picture that has emerged that—from your speeches and your other writings.

He further stated,

> You know, I actually agree that your judicial record strikes me as pretty much in the mainstream of—of judicial decision making by district court judges and by court of appeals judges on the federal bench. And while I think what is creating this cognitive dissonance for many of us and for many of my constituents who I've been hearing from is that you appear to be a different person almost in your speeches and in some of the comments that you've made. So I guess part of what we need to do is to try to reconcile those.

Assume there is a difference between Judge Sotomayor's rulings in the courtroom, and those personal views she expressed outside of the courtroom. If so, aren't we looking for people who can apply the law on the bench, even if he or she has a different personal opinion? At the end of the day, we want our judges to leave their personal views outside of the courtroom. That is the essence of an impartial judiciary.

Senator GRAHAM pointed that out when he said,

> Her speeches, [while troubling], have to be looked at in terms of her record. When we look at this 17-year record we will find someone who has not carried out that speech.

In other words, Judge Sotomayor has demonstrated the trait she is accused by some of lacking: the ability to leave her personal opinions at the courthouse door. She has an extensive judicial record and we have had the opportunity to review that record. The Congressional Research Service analyzed Judge Sotomayor's record and concluded:

> Perhaps the most consistent characteristic of Judge Sotomayor's approach as an appellate judge has been an adherence to the doctrine of stare decisis (i.e., the upholding of past judicial precedents). Other characteristics appear to include what many would describe as a careful application of particular facts at issue in a case and a dislike for situations in which the court might be seen as overstepping its judicial role.

That is the opposite of an activist jurist imposing her views despite the law. During her confirmation hearing, Judge Sotomayor was asked about the role of the courts numerous times. Her response makes clear that she adheres to the responsibilities of a judge:

> . . . look at my decisions for 17 years and note that, in every one of them, I have done what I say that I so firmly believe in. I prove my fidelity to the law, the fact that I do not permit personal views, sympathies or prejudices to influence the outcome of cases, rejecting the challenges of numerous plaintiffs with undisputably sympathetic claims, but ruling the way I have on the basis of law rejecting those claims. . . .

We all have personal views and sympathies. Some judges regrettably can't lay those aside. Judge Sotomayor has proven in her judicial career that she can, while faithfully applying the principles of the U.S. Constitution.

For these reasons, I will vote to confirm Judge Sotomayor to the Supreme Court.

Madam President, I ask unanimous consent that letters received by the Judiciary Committee from the AFL–CIO and from AFSCME be printed in the RECORD.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, July 24, 2009.

DEAR SENATOR: On behalf of the AFL–CIO, I am writing to urge you to support the swift confirmation of Judge Sonia Sotomayor as our next Supreme Court Justice.

Judge Sotomayor fully acknowledges the real world consequences of judicial rulings, and throughout her career has demonstrated her understanding of the impact of the law on working families. She has also consistently interpreted our labor laws in the manner in which they were intended.

Judge Sotomayor has recognized that persecution for union activity can be a basis for granting asylum in this country. She has enforced the rights of workers to be free from all types of discrimination, to be paid correct wages, and to receive the health benefits to which they are entitled. In the baseball strike of 1995, Judge Sotomayor recognized that baseball owners had forced the strike by engaging in unlawful conduct and she issued an injunction that saved baseball.

Throughout her nomination hearing before the Senate Judiciary Committee, Judge Sotomayor demonstrated that she is a stellar jurist with a commitment to uphold the constitutional rights of all.

Judge Sonia Sotomayor would bring more federal judicial experience to the Supreme Court than any justice in the last 100 years. We urge the Senate to confirm her nomination to the Supreme Court.

Sincerely,

WILLIAM SAMUEL,
Director,
Government Affairs Department.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL–CIO,

Washington, DC, July 21, 2009.

MEMBERS OF THE COMMITTEE ON JUDICIARY,
U.S. Senate, Washington, DC.

DEAR SENATOR: On behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to urge you to vote yes when the Senate Judiciary Committee considers the nomination of Judge Sonia Sotomayor to the U.S. Supreme Court. We believe that she conducted herself with distinction during her confirmation hearing and that she should be confirmed as the next U.S. Supreme Court Justice.

Judge Sotomayor was impressive during her confirmation hearing, demonstrating that she is well-qualified to serve on the high court. Her successful appearance before the Judiciary Committee is no surprise when you consider her strong educational and professional background. She was valedictorian of her high school class, won a scholarship to Princeton and earned her law degree at Yale University where she served as editor of the Yale Law Review. Judge Sotomayor has served with distinction as a litigator, prosecutor, trial court and U.S. appellate judge and brings more federal judicial experience than any of the current members of the Supreme Court and than any Justice in the last century prior to their nomination to the high court.

As an organization representing working men and women, we obviously are interested in a judicial nominee's record on issues impacting the lives of working families. Judge Sotomayor has been consistent in her interpretation of labor laws and has worked to

preserve the rights of workers to receive fair pay, health benefits and to be free of workplace discrimination. She has proven that she is well within the mainstream with her views of the Constitution.

Judge Sotomayor's nomination marks a milestone, making her the first Hispanic and the first woman of color to be nominated to the high court, thereby fulfilling President Obama's promise to add diversity to the Supreme Court.

We strongly support the nomination of Judge Sonia Sotomayor to the U.S. Supreme Court and urge you to vote yes to confirm her.

Sincerely,

CHARLES M. LOVELESS,
Director of Legislation.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Madam President, the Judiciary Committee has received several letters and statements of support from organizations dedicated to advancing civil and women's legal rights, including LatinoJustice PRLDEF, the Alliance for Justice, and the National Women's Law Center. I ask unanimous consent that these letters be printed in the RECORD.

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

LATINOJUSTICE, PRLDEF.

FORMER LATINOJUSTICE PRLDEF BOARD MEMBER JUDGE SONIA SOTOMAYOR NOMINATED TO THE U.S. SUPREME COURT

We congratulate former board member and present Federal Appeals Court Judge Sonia Sotomayor in being nominated to the U.S. Supreme Court.

The LatinoJustice PRLDEF family rejoices and congratulates President Obama for making the historic decision to nominate the first Latina to the Supreme Court. The president has not only chosen a well-qualified and respected judge who will be a great asset to the court and our nation—but with his first opportunity to nominate a Supreme Court Justice, the president brings the Hispanic community into the exclusive chambers of the highest court in the land.

''Sonia is a member of our family and spent more than a decade providing leadership to our organization, said Cesar Perales, LatinoJustice PRLDEF President and General Counsel. ''We profited firsthand from her probing mind as well as her thoughtfulness beyond her extraordinary intellect. She is a most practical person who found solutions to complex issues.''

Judge Sotomayor's nomination comes at a time when the Hispanic community is at the heart of a number of highly politicized issues and attacks on our civil liberties. LatinoJustice PRLDEF recently has fought battles against anti-immigration ordinances, a rash of hate crimes against Latinos and attempts to police the use of Spanish.

As the second largest and fastest growing population in America, with a large pool of qualified individuals to choose from, it was wholly appropriate for the president to nominate a Hispanic.

Although Judge Sotomayor has a stellar judicial record, many of her supporters are expecting a fight from the right and from conservatives.

''We are prepared to engage those who would unfairly tarnish her reputation,'' Perales said. ''The nation needs to know that LatinoJustice PRLDEF will come to her defense.''

The Latino community will be looking to the Senate to proceed with the confirmation process in a fair and timely manner.

We expect that senators from both parties should treat Judge Sotomayor with the respect she deserves, examine her record thoughtfully, and perform their constitutional duty without undue delay or obstruction.

LatinoJustice PRLDEF has organized a Task Force made up of exemplary lawyers and academics to conduct a review of the nominee's published papers and decisions.

ALLIANCE FOR JUSTICE,
Washington, DC, July 9, 2009.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. JEFF SESSIONS,
Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: The Alliance for Justice endorses Judge Sonia Sotomayor's nomination to the Supreme Court. Alliance for Justice (''AFJ'') is a national association of over 80 organizations dedicated to advancing justice and democracy. For 30 years we have been leaders in the fight for a more equitable society on behalf of a broad constituency of environmental, consumer, civil and women's rights, children's, senior citizens' and other groups. We believe all Americans have the right to secure justice in the courts and to have our voices heard when government makes decisions affecting our lives.

Judge Sotomayor has a record of academic and professional excellence, and we commend President Obama for choosing a brilliant and fair-minded jurist to serve on our nation's highest court. There is no question that Judge Sotomayor is eminently qualified to serve on the Supreme Court. Her rise from modest circumstances to become a graduate of Princeton University and Yale Law School speaks well of her intellect, character, and dedication. Her extensive career as a criminal and commercial litigator and her seventeen years on the bench as trial and appellate judge round out her sterling credentials.

Importantly, if confirmed, Judge Sotomayor will bring the perspective provided by being the only sitting justice to have served as a trial court judge. It will be enormously valuable to the Supreme Court to have a member with an understanding of the challenges that trial judges face and the way in which Supreme Court rulings are likely to play out on the front lines of the criminal justice system.

We also find it enormously important that throughout her career Judge Sotomayor has worked to open the legal profession to women and people of color. Through her involvement in community activities and as a mentor, she has shared her remarkable talents and example.

As part of AFJ's work to promote a fair and independent judiciary, we conducted a thorough analysis of Judge Sotomayor's judicial record, composed of the more than 700 opinions she has authored in a wide range of areas of law. We focused on four areas of her jurisprudence—access to justice; criminal law and procedure; constitutional and civil rights; and business and consumer litigation—each of which will be addressed in greater detail below. Judge Sotomayor is a careful jurist who digs into the facts of a case and issues narrow rulings. She has written frequently in her opinions about the limited role of a judge, and she has approached change in the law in a very restrained and incremental fashion. A moderate voice who displays no signs of bias toward parties of any particular background or affiliation, Judge Sotomayor tends to avoid announcing new rules or issuing broad statements of principle. She does not consciously espouse a grand theory of interpretation or judicial philosophy. Judge Sotomayor shows deference to the intent of Congress and emphasizes close reading of statutory texts. Above all, her opinions adhere closely to Supreme Court and Second Circuit precedent, showing Judge Sotomayor's deep respect for the rule of law and the importance of stare decisis.

Judge Sotomayor's rulings on legal issues such as justiciability, preemption, jurisdiction-stripping, and sovereign immunity exemplify her cautious, technical approach to judicial review. They also demonstrate both judicial restraint and a commitment to access to federal courts. Taking a measured approach to questions of standing, she has consistently demonstrated fidelity to examining justiciability prerequisites before allowing a case to proceed. Attentive to issues of mootness and ripeness, Judge Sotomayor systematically works through alleged harms, identifies those that create an active case or controversy, and gives attention to statutory limits on injury or on the class of plaintiffs authorized to seek court redress. Although Judge Sotomayor has ruled on only a few preemption cases, her rulings reflect the often complex interplay between state and federal law, and she subjects preemption claims to rigorous statutory analysis, relying on text and legislative history to discern Congressional intent. Her rulings on other doctrines concerning parties' access to justice, such as court stripping, sovereign immunity, and attorneys' fees, demonstrate awareness of the importance of access to a fair and impartial judiciary.

Judge Sotomayor's criminal law experience is lengthy and varied. She spent the first five years of her career as a prosecutor in the Manhattan District Attorney's office, and she has participated in hundreds of criminal cases during her long tenure on the federal bench. Importantly, Judge Sotomayor will bring to the Supreme Court the insights gained from her years presiding over criminal proceedings as a district court judge, which will make her the only sitting justice who has been directly responsible for implementing the U.S. Sentencing Guidelines and meting out punishment. Her district court record reflects a tough jurist unafraid of imposing sentences at the high end of the guideline range for both white collar and violent criminals. She does not, however, uniformly support sentence enhancements, and she vigorously opposed a district court's injection of personal policy preferences into a sentencing decision.

Judge Sotomayor's criminal justice opinions reveal the temperament of a former prosecutor who understands the real-world demands of prosecuting crime and fundamentally respects the rule of law. When reviewing the constitutional rights of criminal defendants, Judge Sotomayor closely follows Second Circuit precedent and dispenses narrow rulings tailored to the particular facts of the case. Exhibiting a moderate and restrained approach to judicial review of trial process, she focuses on procedural issues, and she has resolved the overwhelming majority of her cases without reaching the merits of a defendant's claim. Significantly, she frequently concludes that trial defects resulted

in harmless rather than structural error. Her restrained manner is most evident in her habeas corpus decisions, in which she strictly adheres to the procedural requirements of the Antiterrorism and Effective Death Penalty Act (''AEDPA''), often dismissing habeas petitions as unexhausted or time-barred under AEDPA, even when faced with potentially credible—and, in one instance, ultimately proven—claims of actual innocence. While the Alliance for Justice believes that, where possible, judges should reach the merits of a defendant's constitutional claims and recognize the damage that a trial court error inflicts on the integrity of a criminal proceeding, we nonetheless respect Judge Sotomayor's moderate approach and commitment to preserving the delicate balance between the government's ability to prosecute crime and an individual's constitutional rights.

Judge Sotomayor takes a similarly cautious approach in civil rights cases, above all taking care to strictly follow precedent and limit her rulings to the facts at hand. When finding that the matter before her is not squarely addressed by precedent, she tends to rule narrowly, moving the law in small increments rather than in bold steps. While we do not always agree with her restrained interpretation of statutes or the Constitution, we applaud the consistent attention she has paid to matters of process, including procedural due process. Her opinions insist that individuals in our justice system are entitled to adequate notice, a right to be heard, and representation. In particular, we appreciate that she has shown particular attention to the procedural rights of individuals who are less likely to be able to fend for themselves. She has also emerged as a strong defender of First Amendment rights to free speech and free exercise of religion, as well as the rights of the disabled.

Her limited record reviewing controversial constitutional issues, such as those involving the Second Amendment and the Takings Clause, is a model of restraint, faithfully applying Supreme Court precedent. She does not depart from her cautious approach when reviewing civil rights protections against discrimination. Her employment discrimination decisions are within the legal mainstream, and she has ruled in a consistently balanced manner for both plaintiffs and defendants. Contrary to the accusations by some commentators, there is no evidence of racial bias in any of the hundreds of decisions Judge Sotomayor has written. Rather, her jurisprudence in cases involving racial discrimination claims is very much like her jurisprudence in other areas of the law: deliberate, measured, and strictly adherent to precedent. Finally, on other hot-button issues such as reproductive rights, capital punishment, and executive power, her record is too slim to arrive at any meaningful conclusions about her views.

Our review of Judge Sotomayor's rulings in business and consumer litigation further emphasized Judge Sotomayor's dedication to careful attention to the facts of each case, deference to the legislature, and adherence to legal precedents. Judge Sotomayor has a wealth of experience in business and consumer litigation garnered from her time spent as a judge, in private practice, and through her public service activities. Consequently, she will bring to the Court an impressive working knowledge of commercial law, including securities, antitrust, employment, banking, trademark and copyright, and product liability. An analysis of Judge Sotomayor's opinions in labor cases showed that she cannot be pigeonholed as pro-union, pro-employer, or pro-employee, although her rulings show judicial restraint and a respect for the National Labor Relations Board and Congress's national labor policy favoring collective bargaining.

In sum, our examination of Judge Sotomayor's record demonstrates her consistency and restraint as a jurist. Importantly, her very presence on the Court may have a ''Marshall effect'': justices who sat with Justice Thurgood Marshall have noted that his presence in conference and on the bench changed their conversations and informed their decisions. As the Court's first Hispanic and only its third woman, Judge Sotomayor may have a similar effect on the activist justices on the Court who appear intent on weakening our core constitutional, civil rights, environmental, and labor protections.

Most fundamentally, Judge Sotomayor is a highly accomplished and qualified nominee who has proven herself to be fair, reasonable, and committed to upholding the rule of law and core constitutional values. For these reasons, Alliance for Justice is proud to endorse her historic nomination to the Supreme Court.

Sincerely,

NAN ARON,
President, Alliance for Justice.

NATIONAL WOMEN'S LAW CENTER,
Washington, DC, July 21, 2009.

Re nomination of Judge Sonia Sotomayor to be Associate Justice of the Supreme Court of the United States.

Hon. PATRICK J. LEAHY,
Chair, Senate Judiciary Committee, Washington, DC.

Hon. JEFF SESSIONS,
Ranking Member, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SESSIONS: On behalf of the National Women's Law Center (the ''Center''), we write in support of the nomination of Judge Sonia Sotomayor to be an Associate Justice of the Supreme Court of the United States. Judge Sotomayor possesses sterling academic and legal credentials, with a varied legal career including government service as a prosecutor, private practice in complex areas of commercial law, and 17 years as a federal judge, both at the trial and appellate level. She is well-respected in the profession and has an excellent reputation as a careful, thoughtful, fair, and extremely intelligent jurist. The ABA Standing Committee on the Federal Judiciary unanimously rated her well-qualified for the Supreme Court. She has also received the endorsement of the National Association of Women Lawyers, the Hispanic National Bar Association, and the New York City Bar Association. In addition to her exceptional legal qualifications, Judge Sotomayor brings an inspiring life story and a demonstrated commitment to public and community service, including within the civil rights community.

As an organization dedicated to advancing and protecting women's legal rights, the National Women's Law Center since 1972 has been involved in virtually every major effort to secure and defend women's legal rights in this country. The Center has reviewed Judge Sotomayor's legal record, including her judicial decisions, public statements, and experiences outside of her service on the bench, and her testimony before the Senate Judiciary Committee during her confirmation hearings. The Center's review of the totality of Judge Sotomayor's legal record has led the Center to conclude that Judge Sotomayor will bring a real-world perspective, much-needed diversity of experience and background, considerable legal acumen, and a fair-minded approach to the Court. The National Women's Law Center is proud to support Judge Sotomayor, an exceptionally qualified nominee who is only the third woman, the third person of color, and the first Latina and woman of color, to be nominated to the Supreme Court.

The Center's review focused, on issues of particular importance to women—including prohibitions against sex discrimination under the Equal Protection Clause, the constitutional right to privacy (which includes the right to terminate a pregnancy and other aspects of women's reproductive rights and health), as well as the statutory provisions that protect women's legal rights in such fundamental areas as education, employment, health and safety, and social welfare, access to justice, and public benefits. The Center's analysis is set forth in full in a public report, The Record of Judge Sonia Sotomayor on Critical Legal Rights for women, available at www.org/pdf/Sotomayor Report.pdf, which was released on July 17, 2009.

Judge Sotomayor's legal record demonstrates that she is a careful judge who is extremely respectful of the role of the judiciary, who is deferential to precedent, and who delves deeply into the factual record. Judge Sotomayor's decisions have been fully justifiable as a matter of law and fall well within the mainstream of judicial thought. Questioned extensively about her prior statements regarding the influence that a judge's background and experiences have on the decisionmaking process, Judge Sotomayor replied consistently that she believes strongly that the even-handed application of the law must always prevail. Judge Sotomayor's testimony at her confirmation hearings on a variety of topics and legal issues reinforced her record as a judge, reiterating her commitment to precedent, her careful and fact-bound approach, and her understanding of the role of the judiciary.

Judge Sotomayor's record and testimony provide confidence that her judicial philosophy and approach to the law are consistent with the legal rights and principles that are central to women, including the constitutional right to privacy and Roe v. Wade, Equal Protection, and key statutory protections.

The Center offers its strong support of Judge Sotomayor's nomination to the Supreme Court, and urges the Committee to approve her nomination quickly.

Sincerely,

NANCY DUFF CAMPBELL,
Co-President.
MARCIA D. GREENBERGER,
Co-President.

Mr. DURBIN. Madam President, as a Member of Congress, there are votes you cast that you remember for a lifetime. Recently, a new Senator, AL FRANKEN, came to my office the day after he was sworn in, and we talked about his adjustment to the Senate. He talked to me about his concern about the first three votes he cast in the Senate, that he was pushed in quickly and had to make decisions and didn't have a chance to reflect as he would have liked to reflect on those votes. I said to him that I understood that, but after he has been in the Senate for a while—or the House for that matter—and he has cast many votes, he would realize that some are more important than others.

This is an important vote. It is not the most important vote a Member of the Senate can cast—a vote for a nomination of the Supreme Court. I would argue the most important vote you can

cast is whether America goes to war because if the decision is made in the affirmative, as it has been, people will die. I can't think of anything more compelling than that vote.

But this ranks a close second in terms of the impact it will have. These are lifetime appointments to the Supreme Court. The Supreme Court Justices on average serve 26 years, longer than most Members of Congress. The Supreme Court has the last word in America when it comes to our most significant legal issues. This High Court across the street, comprised of nine men and women, defines our personal rights as Americans to privacy and the restrictions the government can place on the most personal aspect of our lives and our freedom. It doesn't get any more basic than that.

The Supreme Court decides the rights of workers, consumers, immigrants, and victims of discrimination. The nine Justices decide whether Congress has the authority to pass laws to protect our civil rights and our environment. They decide what checks will govern the executive branch—the President—in time of war.

In critical moments in American history, the Supreme Court has succeeded and failed our Nation. In the Dred Scott decision in the 1850s, the Supreme Court perpetuated slavery and led us to a civil war. In Brown v. Board of Education, in the 1950s, that court brought an end to the legal blessing on discrimination based on race. Because these issues were so important, and tomorrow's issues may be as well, we make our choices for the Supreme Court with great care. We obviously need Justices with intelligence, knowledge of the law, the proper judicial temperament, and a commitment to impartial and objective justice. More than that, we need Supreme Court Justices who understand our world and the impact their decisions will have on everyday people. We need Justices whose wisdom comes from life, not just from law books.

Sadly, this important quality seems to be in short supply these days. The Supreme Court has issued decision after decision in recent years that represent a triumph of ideology over common sense. The case of Ledbetter v. Goodyear Tire & Rubber Company is the best example of this troubling trend of the Court. In that case, the Supreme Court dismissed a claim of pay discrimination simply because the claim was filed more than 180 days after the initial discriminatory paycheck. But most employees in most businesses in America have no idea how much the person next to them is being paid, so it is often impossible to know you are a victim of pay discrimination until long after the fact, long after 180 days. The Supreme Court's Ledbetter decision defied common sense, the realities of the workplace, and a long record of earlier decisions.

There was another case, Safford Unified School District v. Redding. A 13-year-old girl was strip-searched at her school based on a false rumor that she was hiding ibuprofen pills. At the oral argument before the Court in April, several Supreme Court Justices asked questions about the case that revealed a stunning lack of concern for the eighth grade victim. One of the Justices even suggested that being strip-searched was no different than changing clothes for gym class. Justice Ruth Bader Ginsburg helped her eight male colleagues understand why the strip search of a 13-year-old girl was humiliating enough to violate her constitutional rights. The majority of the Justices, nevertheless, ruled that school officials were immune from liability.

These and other decisions demonstrate that the Supreme Court needs to understand the real world and the impact its decisions have on real people. I believe Judge Sonia Sotomayor will be such a Justice.

One of my favorite memories of Judge Sotomayor's hearing was watching her mother's face glow with pride as Judge Sotomayor talked about the history of her family. She spoke about growing up in public housing, losing her father when she was 9 years old, and struggling to succeed against adversity, illness, and the odds. She talked about what a great impact her mom had on her life, and that her mom taught her what a friend was worth. She talked about earning scholarships to Princeton University and Yale Law School, serving as a prosecutor and a corporate litigator, and then being selected by President George H.W. Bush to serve the Federal judiciary and being promoted to a higher judicial office by President Bill Clinton.

It is a rare occurrence for a Federal judge to receive appointments by Presidents of different political parties. Sonia Sotomayor received those and that reflects so well on her skill as a judge.

Judge Sotomayor has served for more years as a Federal judge than any other Supreme Court nominee in a century and, if confirmed, she will be the only Justice on the current Supreme Court with actual experience on the district court and the trial court, the front line of our judicial system.

For many who oppose Sonia Sotomayor, her life achievements and her judicial record aren't good enough. They have gone through 3,000 different court decisions that this woman has written or been part of. They have scoured through hundreds of speeches she has given. If you watched the hearing, they focused primarily on one case and one sentence in one speech.

At Judge Sotomayor's hearing, Republican Senators mentioned the words ''wise Latina woman''—that one line in one speech—17 different times. Senator after Senator asked her, ''What did you really, really mean with those three words?''

Those of us who are Senators live in a world of daily decisions, speeches, and votes. If we vote in a way that is controversial, we ask the people to be fair and judge us on our life's work, not on a single vote. It is a standard we ask for ourselves. But for some Senators, it is not a standard they would give Judge Sotomayor when it comes to her decisions and life in public office.

Members of Congress also live in a world of revised and extended remarks. We live in a world of jokes that aren't that funny, and verbal gaffes. Many want to condemn Judge Sotomayor for her ''wise Latina'' remark that she herself conceded was ''a rhetorical flourish that fell flat.'' I think some of her critics in the Senate are applying a double standard here.

I pointed out at the hearing that those who read the ''wise Latina'' sentence should have kept reading, because a little further in that same speech, the judge noted that it was nine white male Justices on the Supreme Court who unanimously handed down the Brown v. Board of Education decision, and other cases involving race and sex discrimination.

Judge Sotomayor made it clear at her hearing that she believes no single race or gender has a monopoly on good judgment. But her statements are not good enough for some of my colleagues. I hope that Senators would be wise enough themselves to look at her long record on the bench and not one line in one speech.

Let's be honest. A great deal of concern about her nomination has to do with the issue of diversity. Why do we even seek diversity when it comes to appointments to the Federal judiciary? First, it is because we live in a diverse nation. We want every American to believe they have an equal opportunity to succeed. We want every American, Black, White, brown, male and female to know that our system of government is fair. We want all Americans to look at our Congress and our courts and feel there are leaders who can identify with the diversity of life experience in this great diverse Nation.

Second, diversity on the Federal bench is important because different life experiences can lead to different perspectives.

Does anybody believe there is a clear, objective answer to every case that comes before the Supreme Court? If they do, please explain to me why one-third of all rulings in that Court in the last term were decided by a 5-to-4 vote.

Does anybody believe the Supreme Court's recent strip search case would have come out the same way if Justice Ginsburg, the only woman on the Supreme Court at this moment, had not helped her eight male colleagues to reflect on what it was like for a 13-year-old girl to be treated in such a humiliating fashion at her school?

Does anybody believe that women judges have not helped their male colleagues understand the realities of sex discrimination and sexual harassment in the workplace? Study after study has shown that men and women on the

bench sometimes rule differently in discrimination cases. That is why diversity is so important.

This doesn't mean their rulings are based on personal bias. It simply means that Americans see the world through the prism of various experiences and perspectives. Our Supreme Court Justices should possess an equally rich and wide field of vision as they interpret the facts and the law. Criticizing Judge Sotomayor for recognizing this reality is unfair.

The criticism of Judge Sotomayor for her position in the Ricci case, which involved the firefighters in Connecticut, is also unfair. Judge Sotomayor's position in that case followed past judicial precedents. At her nomination hearing, she offered clear explanations about the law as she saw it when she reached her conclusion, and about how her decision was fully consistent with the way the law has historically dealt with competing claims of discrimination.

Her position in the Ricci case was supported by a majority of the members of her appellate court, a unanimous three-judge panel of her court, the district court, and by four of the nine members of the Supreme Court. Hers was not a radical, unreasonable position. I think we know that. When my colleague Senator SPECTER asked the firefighters themselves if they believed that Judge Sotomayor's ruling in the case was made in good faith, they said they had no reason to believe otherwise. Nor do I.

To those who say Judge Sotomayor wouldn't have an open mind in race discrimination cases, look at her 17 years on the bench. Based on an independent study by Supreme Court scholar Thomas Goldstein, after looking at all 96 of her race discrimination cases, he found that she ruled in favor of the plaintiffs less than 10 percent of the time. There is no bias in her decision-making. The facts don't support that conclusion.

There are two other issues I will address—foreign law and the second amendment. These issues are near and dear to the rightwing conservative base.

With respect to foreign law, Judge Sotomayor stated repeatedly over and over, in question after question, that American courts should not rely on decisions of foreign courts as controlling precedent. But she said that in limited circumstances, decisions of foreign courts can be a source of ideas, akin to law review articles or legal treatises.

She is hardly alone in her thinking on this. Justice Ginsburg took the same position and observed: ''I will take enlightenment wherever I can get it.''

This commonsense approach has been embraced by two conservative Supreme Court Justices appointed by President Reagan: William Rehnquist and Anthony Kennedy.

Indeed, we cannot expect the rest of the world to adopt the democratic principles and fundamental freedoms we promote as a Nation, while at the same time saying we will never consider ideas developed in other countries. This is plain common sense.

It is sad that some of my colleagues are in the thrall of small-minded xenophobes and don't appreciate that the march of democracy has reached many corners of the world and generated thoughtful reflection on our most basic values.

On the issue of the second amendment, I was sorry to see a major lobby group in Washington, DC, the National Rifle Association, not only announce their opposition to Judge Sotomayor but also notify its members and colleagues that this vote is going to be scored against them on the annual legislative scorecard. This is the first time in its history that the NRA has taken a position on a Supreme Court Justice.

Every citizen is entitled to his opinion, but it is unfortunate that the decision of this historic gravity has become a bargaining chip for lobbyists in Washington, and contributions in the next political campaign. What is worse, Judge Sotomayor has a record of honest reflection on the second amendment.

Most of the gun-related criticism of Judge Sotomayor is focused on the Maloney case. But in that case, she came to the exact same conclusion as a three-judge panel of the U.S. Court of Appeals for the Seventh Circuit, based in Illinois. That three-judge panel was not a gathering of liberals. It featured three Republican appointees and two of the most conservative icons on the Federal bench, Judge Frank Easterbrook and Judge Richard Posner.

They concluded that only the Supreme Court, not appellate courts, could overrule century-old Supreme Court precedents on whether the second amendment right to bear arms applies to the States.

I realize the NRA and their Senate allies don't like that ruling. They wanted Judge Sotomayor to do what the Ninth Circuit did and overrule Supreme Court precedent. But in the Maloney case, Judge Sotomayor did what an appellate court should do, and she followed the law.

I am pleased that not every conservative group joined the NRA's line of fire. I will mention some organizations and individuals who don't typically show up at Democratic party rallies but who support the judge: Kenneth Starr, a man who led the impeachment of President Clinton; Charles Fried, a conservative Republican who served as Solicitor General during the Reagan administration, also supports her confirmation, as do conservative columnists Charles Krauthammer and David Brooks. The U.S. Chamber of Commerce has endorsed her. In Illinois, the conservative Chicago Tribune said:

> In four days of testimony under often intense questioning, [Judge Sotomayor] handled herself with grace and patience, displaying a thorough knowledge of case law and an appreciation of her critics' concerns. The result was to reinforce a strong case that she will make a good Supreme Court justice and deserves Senate approval.

I want to acknowledge that, as of this moment, eight Republican Senators have stepped forward and announced they are going to support Judge Sotomayor. I am heartened by their courage and their support of this fine judge.

The last issue I would like to address is that word ''empathy.'' Judge Sotomayor's critics have twisted and tortured this word in an effort to discredit her and raise doubts about her objectivity. Empathy is simply the ability to see another person's point of view. It is the ability to put yourself in their shoes. That is it. It doesn't mean exercising bias or favoring a particular side. The judge's critics are wrong to conflate these concepts.

I believe, and President Obama believes, that Judge Sotomayor's life experience—from her days growing up in public housing, to her service as a high-powered lawyer representing large corporations—will give her a unique ability to understand the interests of all the parties that come before her for decisions of the Supreme Court. It gives her an ability to understand different perspectives and points of view. That is what empathy is all about.

Judge Sotomayor had demonstrated this quality in 17 years on the bench. It explains why she enjoys such a reputation for fairness and thoughtfulness.

In the 220-year history of the United States, 110 Supreme Court Justices have served under our Constitution, and 106 of them have been white males. We have had two women Justices, Sandra Day O'Connor and Ruth Bader Ginsburg. Two of them have been African Americans, Thurgood Marshall and Clarence Thomas.

In life, and in our Nation, if you want to be first, you have to be the best. Sonia Sotomayor's resume and inspirational background clearly meet that higher standard. What a great story it is for America that President Obama has given us a chance to consider Sonia Sotomayor to serve as the first Hispanic woman on the Supreme Court.

Judge Sotomayor should not be chosen to serve on the Court because of her Hispanic heritage. But those who oppose her for fear of her unique life experience do no justice to her or our Nation. Their names will be listed in our Nation's annals of elected officials one step behind America's historic march forward.

I urge my colleagues to support and vote yes on the nomination of Sonia Sotomayor to be the next Justice of the Supreme Court of the United States.

Mr. HARKIN. Madam President, I am proud to support the confirmation of Judge Sonia Sotomayor as the next Associate Justice of the U.S. Supreme Court.

Judge Sotomayor's story is proof of the central American promise: that any person, by sheer force of their talent, can rise from the humblest background to one of the highest offices in this country. Born to a Puerto Rican family, Judge Sotomayor grew up in public housing in the South Bronx. Her father, a tool-and-die worker with a third grade education, died when she was nine years old. Due to her mother's struggle and sacrifice, and Judge Sotomayor's tremendous ability and perseverance, she graduated valedictorian of her high school in New York, then graduated summa cum laude from Princeton University.

She went on to earn her law degree from Yale Law School, where she was editor of the Yale Law Journal. After law school, Judge Sotomayor served as an assistant district attorney in New York County for 5 years and then entered private practice as a corporate litigator. For the past 17 years, she has served as a Federal district and appellate court judge.

Given her experiences and career, there is no doubt that Judge Sotomayor is immensely qualified to serve on our Nation's highest Court. What is clear from her 17-year judicial career, from my meeting with her, and from her confirmation hearing is that she is an unbiased, mainstream judge with a deep commitment to the rule of law and constitutional values. She has an exemplary record during her tenure on the bench, and every independent analysis has made clear that she is a judge who faithfully applies the law.

Given her record, I am saddened that many Republicans have chosen to grossly distort her record, and have spent so much time focusing on a few out-of-context quotes and less than a handful of decisions. Putting rhetoric aside, she has participated in nearly 3,000 decisions and authored approximately 400 opinions. Her 17-year record overwhelmingly demonstrates that she is anything but a ''judicial activist.''

Considering her outstanding intellect, credentials and judicial record, there simply is no doubt Judge Sotomayor should be confirmed. However, for me, there is another, equally important, consideration. I also firmly believe that Judge Sotomayor will be an important and needed voice on the Court to ensure proper effect is given to our most important statutes, such as the Americans with Disabilities Act, ADA, the Civil Rights Act, and the Age Discrimination Employment Act, ADEA, so all Americans receive the fullest protections of the law.

This is illustrated in an area of the law that I care deeply about—disabilities rights. Unfortunately, as many in Congress know, the Rehnquist Court repeatedly misread the ADA, ignored the intent of Congress and narrowed the scope of individuals deemed eligible for protection under the ADA. The result of these decisions was to eliminate protection for countless thousands of Americans with disabilities. These flawed, harmful decisions were reversed last year when Congress unanimously enacted the ADA Amendments Act.

The contrast between the Rehnquist Court and Judge Sotomayor is stark. In Bartlett v. New York State Board of Bar Examiners, Marilyn Bartlett had a Ph.D. in educational administration and a law degree from Vermont Law School. She was also diagnosed with a disability that affected her reading speed and fluency. After completing law school, Ms. Bartlett worked as an associate and received excellent reviews. However, when she took the bar exam, she was denied accommodation for her reading impairment, such as extra time and permission to record her essays on tape. She failed the exam. The bar claimed that she did not have a disability because the examiners did not believe she was limited in the major life activities of reading or working.

Judge Sotomayor, however, ruled for Ms. Bartlett, holding that a student with learning disabilities was entitled to an accommodation while taking the bar exam. Understanding the true purposes of the ADA, she noted:

> For those of us for whom words sing, sentences paint pictures, and paragraphs create panoramic views of the world, the inability to identify and process words with ease would be crippling. Plaintiff, an obviously intelligent, highly articulate individual reads slowly, haltingly, and laboriously. She simply does not read in the manner of an average person. I reject the basic premise of defendants' experts that a learning disability in reading can be identified solely by a person's inability to decode, i.e., identify words, as measured by standardized tests, and I accept instead the basic premise of plaintiff's experts that a learning disability in reading has to be identified in the context of an individual's total processing difficulties.

As the Congressional Research Service noted, ''She anticipated the legislative discussions surrounding the ADA Amendments Act by finding the use of self accommodations did not mean that the plaintiff was not an individual with a disability.''

The contrast between Judge Sotomayor's approach to judging—with her respect for congressional intent and for long-standing precedent—and the current Court's activism is likewise illustrated by their respective treatment of so called ''mixed motive'' discrimination cases.

In June of this year, the Supreme Court decided Gross v. FBL Financial, Inc. In a case involving an Iowan, Jack Gross, the Court made it harder for those with legitimate age discrimination claims to prevail under the ADEA. In doing so, it reversed a well established, 20-year-old standard, consistent with that under title VII of the Civil Rights Act, that a plaintiff need only show that membership in a protected class was a ''motivating factor'' in an employer's action. Instead, the Court held that a plaintiff alleging age discrimination must prove that an employment action would not have been taken against him or her ''but for'' age. In other words, the plaintiff must now prove that age discrimination was not a cause or a motivating factor, but must prove that it was the exclusive cause of an adverse employment action. Proving ''but for'' cause is extremely difficult and will greatly limit potentially meritorious suits involving discrimination Congress sought to prevent.

In doing so, the Court did not even address the question it granted certiorari on. As Justice Stevens noted in dissent, ''I disagree not only with the Court's interpretation of the statute, but also with its decision to engage in unnecessary lawmaking. The Court is unconcerned that the question it chooses to answer has not been briefed by the parties or uninterested amici curie. Its failure to consider the views of the United States, which represents the agency charged with administering the [Age Discrimination Employment Act], is especially irresponsible.''

The contrast with Judge Sotomayor is telling. In Parker v. Columbia Pictures, she addressed the very same question in the disabilities context—whether a plaintiff need show discrimination was a ''motivating factor'' or ''but-for'' cause under the ADA. In contrast to Justice Thomas's opinion in Gross, she carefully analyzed the statutory language, intent of Congress and precedents and noted that ''Congress intended the statute . . . to cover situations in which discrimination on the basis of disability is one factor, but not the only factor, motivating an adverse employment action.''

Unfortunately, the Supreme Court has transformed the legal landscape regarding the ability of Congress to protect our most vulnerable citizens. In fact, since 1995, the Rehnquist and Roberts Courts have struck down 38 acts of Congress. Until then, the Court had struck down an average of one statute every 2 years.

For example, in University of Alabama v. Garrett, a case I personally attended, the Court limited the rights of people with disabilities. In doing so, it ignored numerous congressional hearings and a task force which collected evidence through 63 public forums around the country attended by more than 7,000 persons. In United States v. Morrison and Kimel v. Florida Board of Regents, the Court completely ignored extensive congressional fact-finding and struck down parts of the Violence Against Women's Act and Age Discrimination Employment Act, respectively. In June, in Northwest Austin Municipal Utility District v. Holder, the Court suggested it was poised to strike down the Voting Rights Act, disregarding expansive congressional fact-finding, including 21 hearings and 16,000 pages of testimony.

Given the current Court's repeated disregard for Congress and for our efforts to expansively protect American citizens from discrimination, I believe it is imperative that the next Justice

be someone who respects precedent, strives to apply congressional intent and purpose, and understands the importance of this Nation's landmark civil rights protections. Based on her long judicial record, I am confident Judge Sotomayor is precisely that type of jurist.

Confirmation of Judge Sotomayor will be historic. She clearly has the intellect, experience and judgment to be an outstanding Justice. I am proud to support her nomination.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. VOINOVICH. Madam President, I rise today in support of the confirmation of Judge Sonia Sotomayor as an Associate Justice of the U.S. Supreme Court.

The role of the Senate in the nomination of a Supreme Court Justice is to give its advice and consent on the President's nomination. I believe it has been the longstanding tradition of this body that we are to judge whether an individual is qualified to serve based on the complete record of each nominee.

Once again, I compliment Senators SESSIONS and LEAHY for the excellent job they have done in handling the confirmation hearings for Judge Sotomayor. The hearings were fair and enabled the American people to get a better understanding of what sort of Justice Judge Sotomayor will be. Equally important, these hearings were conducted with civility, allowing Senators to disagree without being disagreeable. This is something I would like to see more of in the Senate. Sadly, as some of my colleagues have pointed out, the judicial nomination process has become so partisan that it seems to bring out the worst in the Senate, when it ought to bring out the best.

I believe the factors to be examined in determining whether a Supreme Court nominee is qualified include her education, prior legal and judicial experience, judicial temperament, and commitment to the rule of law. Based on my review of her record, and using these factors, I have determined that Judge Sotomayor meets the criteria to become a Justice of the Supreme Court. I didn't come to this determination lightly, and Judge Sotomayor has made statements that give me pause. However, after reviewing her judicial record and the comments made during the Judiciary Committee hearings, on balance, I believe she is fit to serve on our Nation's highest Court.

I am comforted by Judge Sotomayor's express rejection of then-Senator Obama's view that in a certain percentage of judicial decisions ''the critical ingredient is supplied by what's in the judge's heart and the depth and breadth of one's empathy.'' In answer to a question from Senator KYL, Judge Sotomayor said:

> I can only explain what I think judges should do, which is judges can't rely on what's in their heart. They don't determine the law. Congress makes the laws. The job of a judge is to apply the law. And so it's not the heart that compels conclusions in cases, it's the law. The judge applies the law to the facts before that judge.

In addition to being fit for the bench, the story of Judge Sotomayor is the story of so many Americans who rose from humble beginnings to reach levels of achievement that would not be possible in any other nation.

It is sort of the story that reminds me of what is so unique and special about our Nation, that a young working-class Latina woman or the son of a first-generation Eastern European immigrant family can be nominated to the Supreme Court or be elected to serve his home State in this great Chamber.

During our private meeting, Judge Sotomayor and I were able to discuss this opportunity. What struck me is she is someone who understands what a great opportunity this is, as well as the great challenges that await her. While the Founding Fathers may have a disagreement with her on some of her legal views, I think they would be proud that judging individuals on their merit has endured as part of this great experiment.

As a number of my colleagues have already noted, Judge Sotomayor, through hard work, has risen from humble beginnings to now await confirmation to the Supreme Court. Judge Sotomayor excelled throughout her academic career. From the time at Blessed Sacrament School and Cardinal Spellman High School, where she was the valedictorian of her class, she has excelled in highly competitive environments. Like Justice Alito, she is a graduate of Princeton University and Yale Law School. Judge Sotomayor attended Princeton on scholarship and graduated not only summa cum laude but also was the recipient of the prestigious Pyne Prize from that university. Judge Sotomayor went on to Yale Law School, where she served as an editor of the Yale Law Journal. Her academic record should serve as an inspiration to all that in a meritocracy, we all have an equal opportunity to rise to the top.

After her stellar academic career, Judge Sotomayor entered public service as a district attorney in New York, where her drive and basic fairness were well noted. This commitment to public service impressed me.

Judge Sotomayor not only succeeded in the public sector, she also worked her way up from associate to partner, practicing corporate law at a New York law firm. In private practice, Judge Sotomayor specialized in intellectual property and copyright law. Her rise from associate to partner in such a specialized field is a clear indication that the private sector recognized her merit and rewarded her for her skill and ability.

Judge Sotomayor returned to public service with her appointment to the district court, where she served for 6 years. I believe Judge Sotomayor's experience on the district court will be invaluable to the Supreme Court, where none of her colleagues have experience as a judge in a trial court. I hope her experience there will help shape her future opinions, particularly in procedural cases where many commentators have noted a need for rules that work in practice, not just in theory.

Judge Sotomayor's time on the trial bench was marked by opinions that set forth the facts and applied the law narrowly. Did you hear that? Her time on the trial bench was marked by opinions that set forth the facts and applied the law narrowly—exactly what one would want from a trial court.

In addition to district court experience, Judge Sotomayor has appellate court experience, over 10 years on the Second Circuit. I reviewed many of her opinions from her time on the Second Circuit, and while many were not opinions I would have offered, her opinions, as well, were within the legal mainstream. Judge Sotomayor's opinions, for the most part, were lengthy, workman-like, limited rulings, the sort of opinions that exhibit the judicial restraint one would hope for a Supreme Court Justice.

Given her academic and professional achievements, it is not surprising that the American Bar Association has given the judge its highest ratings when considering her for the Supreme Court.

While impressive in what she has overcome to reach this point in her career, her record is not without blemish. In particular, the one comment that gave me significant pause as to whether I would support her nomination is the now well-known statement by the judge that ''a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life.'' Such a statement is repugnant to someone like me who has worked so hard to reach a colorblind society where an individual's race or gender is not considered in judging a person's merit. The question I had to ask myself was, Is this comment an indication that Judge Sotomayor would reject the rule of law and blind justice to favor certain people on the basis of inappropriate criteria? After study of her judicial record, I have concluded it is not. Based on my review, Judge Sotomayor's decisions, while not always decisions I would render, are not outside the legal mainstream and do not indicate an obvious desire to legislate from the bench. Furthermore, Judge Sotomayor recognized during her nomination hearings that this ''could be hurtful'' and was not reflective of how she would judge cases. Through my review and my staff's review of her cases, her testimony, and my conversations with the judge, I have confidence that the parties who appear before her will encounter a judge who is committed to recognizing

and suppressing any personal bias she may have to reach a decision that is dictated by the rule of law and precedent.

I think I would be remiss in my discussion of the judge if I failed to address the Supreme Court's decision in the Ricci v. DeStefano case. By now, all my colleagues and many Americans are aware that the Supreme Court reversed the Second Circuit's decision in the Ricci case. The case involved a reverse-discrimination suit against the city of New Haven, CT.

Some opponents of Judge Sotomayor's confirmation have used this opinion to suggest that her legal philosophy is outside the mainstream of American jurisprudence and that her nomination should be rejected. I believe a review of the close decisions rendered by the various Federal courts, including the Second Circuit's 7-to-6 decision to refuse to rehear the case and the Supreme Court's 5-to-4 decision to reverse the Second Circuit, suggests this matter was, for a number of the judges who reviewed the case, a close call. In other words, it was very close. For one to say she is outside the mainstream when these decisions were so close I think is really stretching things quite a bit. Nevertheless, I believe Judge Sotomayor and her fellow panel judges would have better served the public by issuing a more comprehensive decision regarding their logic in affirming the district court's decision in favor of the city of New Haven.

In closing, I wish to make a few remarks about the judicial confirmation process.

Judge Sotomayor is the third nominee to the Supreme Court to come before the Senate since I came to the Senate in 1999. For both Justice Roberts and Justice Alito, then-Senator Obama promoted an ''empathy standard'' to determine if he would vote for these nominees. Then-Senator Obama said:

> The critical ingredient is supplied by what is in the judge's heart.

Such an analysis is no analysis at all. In fact, it flies in the face of the meritocracy in which Judge Sotomayor succeeded. All of us in this Chamber can examine the academic credentials of and prior judicial decisions authored by a nominee and determine whether he or she is qualified. We cannot examine and judge what is in the heart.

Let me be clear. If I applied Senator Obama's standard, I would not be voting for Judge Sotomayor, his nominee. The President was wrong. I think his standard makes the whole nomination process an exercise in partisan politics. We need less politics in the judicial selection process and the judiciary in general, not more. It has become too politicized in the last several years. It is something about which all of us should be concerned.

I urge all my colleagues to reject the Obama empathy standard—just as Judge Sotomayor rejected it, just as I am rejecting it—and return to a standard where it is the qualifications of the nominee we judge, not the politics or heart of that nominee.

Judge Sotomayor is not the nominee I would have selected if I were President, but making a nomination is not my role today. My role is to examine her qualifications to determine if she is fit to serve. Again, in reviewing her academic and professional record, taking into account her temperament and integrity, it is clear to me she is qualified to serve as the next Associate Justice of the Supreme Court.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAGAN). Will the Senator withhold the request for a quorum call?

Mr. VOINOVICH. Yes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Madam President, I ask unanimous consent to jump to the Democratic side for 5 minutes, if that is possible.

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

The Senator from Vermont.

Mr. SANDERS. Madam President, I thank my Republican colleague.

I begin by congratulating my colleague from Vermont, Senator LEAHY, for the distinguished manner in which he has led these hearings.

I rise today in support of the nomination of Judge Sonia Sotomayor to be an Associate Justice of the Supreme Court. As an assistant district attorney, a Federal district judge for the Southern District of New York, and a Federal circuit court judge for the U.S. Court of Appeals for the Second Circuit, Judge Sotomayor has demonstrated her eminent qualifications, impartial jurisprudence, and a faithful interpretation of the U.S. Constitution, and this body has every reason to vote today in support of her nomination.

It is no secret that over the last 50 years, the Supreme Court has become a very conservative institution. We are long past the days when the Court respected and dutifully applied the full implications of the Bill of Rights and vigorously protected the freedoms provided us by the Founders of our country and the Framers of the Constitution. Recently, this rightwing drift has become worse, not better. The present Court has routinely favored corporate interests over the needs of working people and the interests of the wealthy and powerful against those of ordinary citizens.

My hope is that Judge Sotomayor will help bring balance to a Supreme Court that today is way out of balance and has moved very far to the right.

The Court recently gutted a key provision of the McCain-Feingold campaign finance law, allowing well-financed corporations to manipulate the legislative process under the guise of free speech—as if the Bill of Rights were written to grant giant corporations the same level of constitutional protection that it does flesh-and-blood American citizens. That is wrong, and that is unfortunate.

The Supreme Court recently made it easier for employers to avoid valid pay discrimination claims by their employees on procedural technicalities, a decision Congress had to rectify. And just this past term, the Court scaled back environmental protections, holding that the Clean Water Act permits a mining company to pump hundreds of thousands of gallons of toxic wastewater per day into an Alaskan lake.

I sincerely hope and I have every confidence that Judge Sotomayor's nomination to the Supreme Court will help curb this corporatist trend and put the Court back on the path of respecting the rights of individual Americans and the environmental and other laws passed by Congress. For that reason, I intend to vote for Judge Sotomayor as Associate Justice of the Supreme Court.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. KENNEDY. Madam President, I strongly support the nomination of Judge Sonia Sotomayor to be a Justice on the Supreme Court of the United States. She will be the most experienced jurist to be placed on the Supreme Court in a century, and she will be the first Latina Justice in our Nation's history.

With her extensive career in public service and her lifelong commitment to equal justice, Judge Sotomayor will bring a remarkable perspective to the Court. Given her extraordinary and far-ranging experience, she has already distinguished herself as one of the most able and hardworking Federal judges in the Nation, and I am confident that she will bring the same high ability and dedication to all issues before the Supreme Court.

Judge Sotomayor has already spent 17 years as a Federal judge. She was first nominated to the U.S. District Court for the Southern District of New York in 1992 by President George H.W. Bush. Six years later, she was nominated by President Clinton to the U.S. Court of Appeals for the Second Circuit. She received bipartisan support in the Senate each time, and it is a special privilege for me to support her for the third time.

Judge Sotomayor has a deep understanding of our legal system as a result of the experience she has had as an attorney and a judge. She has more judicial experience at both the appellate and district court level than any Supreme Court nominee in the past 70 years. In addition, in her earlier legal career, she served as an assistant district attorney in New York City and worked as a civil litigator in private practice. Her experience in the criminal and civil systems and as a district judge and an appellate court judge give her a unique perspective that will be invaluable as a Justice of the Supreme Court.

During her years as a Federal judge, she has participated in over 3,000 decisions, including over 400 Second Circuit decisions by panels that included at least one judge appointed by a Republican President. In those cases, she has agreed with the result favored by the Republican appointee over 95 percent of the time. Some have sought to portray Judge Sotomayor as a judicial activist, but her record clearly shows that she is a mainstream jurist who does not let personal ideology dictate the outcome of the cases she is deciding.

Not only is Judge Sotomayor eminently qualified by her experience to serve on the Supreme Court, but her nomination is historic. I, like many Americans, welcome the insight and perspective that Judge Sotomayor will bring to the Court, and she will serve as a role model for millions of our people.

Judge Sotomayor's compelling life story is an impressive example of the best of our country. She was born in the Bronx and raised in New York City by hardworking parents. Through the strong support of her family and her own hard work and dedication and extraordinary achievement, she has been nominated to be the Nation's 111th Supreme Court Justice.

I commend President Obama for selecting her. With her intelligence, insight, and experience, she is an excellent choice to serve in this distinguished role, and I am sure she will do an outstanding job protecting the rule of law and the fundamental rights and liberties of all Americans. Judge Sotomayor has worked hard to achieve success, and I commend her for her life's accomplishments. I wish her well in this new role, and I urge my colleagues to support her confirmation.

On the day soon to come, when she walks up the steps of the Supreme Court and passes under those famous and inspiring words, ''Equal Justice Under Law,'' inscribed in the marble over the entrance, millions of our fellow citizens and communities across the Nation will be able to say, ''Yes, the American dream is alive and well in America today.''●

Mr. BINGAMAN. Madam President, I rise to speak in support of Judge Sonia Sotomayor's nomination to be an Associate Justice of the U.S. Supreme Court.

Judge Sotomayor's nomination to the highest court in the land is historic in several respects. Clearly, becoming the first Hispanic to serve on the U.S. Supreme Court is an important milestone. Our country is well served when these barriers fall and we are able to put forward qualified candidates who reflect the diversity of our citizenry.

But what also makes Judge Sotomayor's nomination so significant is the extent of her judicial experience and her overall qualifications.

Judge Sotomayor has more Federal judicial experience than any jurist nominated to the Court in the last 100 years, and has more overall judicial experience than any nominee in the last 70 years. She is the first Supreme Court nominee to have sat on both a Federal trial court and an appellate court, and would be the only current justice with trial court experience. Altogether, she has been a Federal judge for over 17 years, including 6 years on the U.S. District Court for the Southern District of New York and 11 years on the U.S. Court of Appeals for the Second Circuit. In addition to serving on the bench, Judge Sotomayor has a distinguished record as a prosecutor and an attorney in private practice.

Considering the depth of Judge Sotomayor's experience, it is not surprising that after a thorough review of her record the American Bar Association unanimously gave her their highest rating. The ABA found that she was ''well qualified'' to serve as a justice based on her integrity, competence, and judicial temperament. Judge Sotomayor's testimony before the Senate Judiciary Committee also demonstrated her adherence to mainstream jurisprudence and commitment to objectively making decisions based on the facts of each case and the applicable legal precedent.

I strongly believe Judge Sotomayor has the qualifications, experience, and impartiality necessary to be an excellent justice of the Supreme Court, and I urge my colleagues to support her nomination.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Madam President, we have heard a number of discussions from Senators throughout this confirmation process regarding judicial activism—what is it and what does it mean. I think our former Judiciary Committee chairman and great legal constitutional scholar, ORRIN HATCH, has defined it clearly and fairly and in the right way. ORRIN HATCH has said for years that judicial activism is when a judge is assigned a case and they allow their personal, political, moral, religious or ideological views to influence their decision, and not render a verdict based on the law and the facts. It is true of a conservative jurist with a conservative ideology as well as a liberal.

In truth, in recent years, we have had a pretty frequent national debate—for maybe 20 or more years—over this question. The intellectual defense of activism—the living constitutional view of activism—has come from the liberal side. Conservatives have said: No, that is not the role of a judge. A judge is supposed to decide the discrete issue before them in a way that handles that case because it may well provide precedent in the future. And that is what they should do and not be expansive in their rulings and set policy or to promote some long-term agenda they believe—rightly or wrongly—may be the greatest thing the country could ever do. They weren't elected to set policy. Judges aren't elected to declare to the United States how we ought to tax or regulate the environment or that kind of thing. That is what the legislative branch gets to do.

So I wished to raise that and discuss it a little further. It has also been mischaracterized that conservative jurists who show restraint are activists—they are not, but they have been accused of activism—because they have actually seen fit to throw out and find unconstitutional a statute passed by Congress. Well, we passed an 800-page stimulus package, we passed a bailout bill last fall that nobody even got to read or to study. I am surprised there are not more pieces of legislation held unconstitutional than there are.

It is not activism for a judge, such as Chief Justice Roberts—who has been accused of being an activist—to declare a statute unconstitutional. What would be wrong is if he were doing so to promote his own personal views about policy. That would be wrong.

The second amendment to the Constitution says that ''a well-regulated militia being essential for the security of a free State, the right of the people to keep and bear arms shall not be infringed.'' That is what the second amendment says. It is in the Constitution. It is one of the Bill of Rights. Essentially, when the city of Washington, DC—a Federal enclave, a district—saw fit to almost completely ban the right of citizens in this city to have guns, Chief Justice Roberts and four other members of the Supreme Court found it violated the Constitution. It violated the right of the people to keep and bear arms. That is not activism, is what I am saying. Somehow we have gotten confused on this matter. Therefore, we need to be alerted to it.

Sometimes my colleagues, I think, have tried to say: Well, everybody does it. Everybody is an activist, so the Constitution is a malleable document. It gets redefined as the years go by. It is a living document, they say. But it is not living, is it? You can go over to the archives building and you can see it. It is a contract. The American people granted certain rights to this government and they reserved certain rights to themselves. Of the rights they reserved, for example, was the right of free speech, the right to assemble, and to criticize their incumbent politicians if they are not happy with them. They reserved the right to keep and bear arms.

I think we need to get our minds straight. Judges should see their role as a limited role, and they should not seek to impose their policy values on the country. They should see it as then-Judge Roberts said in his hearing so beautifully and so eloquently: A

judge is a neutral umpire. They call the balls and strikes. They do not take sides in the ball game. How much more basic can it be than that?

I wanted to try to clarify that point, and I think it is important. We have other constitutional rights—the right to keep your property unless it be taken for public use, such as a highway. That is a public use. But in the Kelo case, 5 to 4, and in the case rendered by Judge Sotomayor, they ruled that the government could take one man's drugstore—his property on which he was going to build a private drugstore—and the city could condemn it and give the property to another man to build a different drugstore on for personal profit. Where does the public use come from?

Justice O'Connor dissented in the Kelo case and ruled the other way. She ruled the other way, and it was okay to do that. The case dealing with Judge Sotomayor went even further than that. But it is not activism for a court to say that no city, or whatever, can take a man's property under some redevelopment scheme or plan so they can get more tax money, because if they take it and give it to this other private guy, he can build a big shopping center there and they will get more tax revenue. That is not a public use. The question is: Is the property used for a public purpose, not otherwise? The Constitution gives an individual the right to have their own property and people can't take it from you.

The Constitution, likewise, says every American citizen is entitled to equal protection of the laws and that they cannot be denied equal protection of the laws on account of their race. It is a big important constitutional issue. So we get into a situation where a city, New Haven, conducts a fair test, by all accounts; a carefully crafted test. No one criticized its validity. They conducted a test and 18 firefighters passed the test. They testified that they studied very hard to master the test which related directly to their firefighting ability. They go out and do the right thing and they are on track to be promoted. But not enough people of one group or another did well on the test, and the city—the government—decides they didn't get the results they liked on this test and so they threw it out.

It is not activism for the U.S. Supreme Court to say—really all of them to say—that this is not right, that this is not complying with the Constitution or even the civil rights statutes in America that require equal justice under the law, not favoritism based on one or the other because of their background, ethnicity, or race. That is just what it is all about.

The Justices on the Supreme Court, the ones who are known for showing restraint, should not be criticized if on occasion they declare the U.S. Congress did something wrong and it was unconstitutional. I am afraid we do it more often than we like to admit, the truth be known. Bills come through here late at night, nobody has done any constitutional research on most of what is in them to see if it is constitutional or not. The American people are entitled to have the final decision about constitutionality rest with a court that is prepared to defend their individual rights.

On the three cases I mentioned—the case of a property taking from a private individual, the case of 18 firefighters who passed the test and were ready to claim their promotion, and the question of the right to keep and bear arms—each one of those was an individual situation in which an individual American appealed to the courts and claimed they have a right in plain words provided to them by the Constitution and they are asserting that right and they are pleading their case in the Court and asking the Court to grant them that right. In the three cases I mentioned, unfortunately Judge Sotomayor ruled with the government, the power of the State, and against the individuals asserting their claims in three exceedingly important cases.

It is not activism to throw out a city's decision on forfeiture or guns; nor is it activism to throw out a decision that discriminates against American citizens based on their race.

That is one of the things we discussed a lot in this debate. I think it has been a good debate. I complimented Senator LEAHY this morning again. He gave us all a chance to ask questions. We had 30 minutes, as we have done before. Some wanted to do less, but he said no, that is the way we do these things. We had 30-minute rounds and then 20-minute rounds and then 10-minute rounds to ask questions. I think pretty much the fundamental issues involved in this nomination got discussed in committee. Some written questions were filed in addition. Now that it is on the Senate floor, I believe the Members of the Senate have an adequate record from which they can make a decision on what they think is best for America.

I believe we should not have anyone on the Court who is not committed to the Constitution, not committed to putting aside their personal political agenda, and who will stay in strict adherence to the law and the facts of the cases that come before them. That is how I evaluated this case.

I am proud of Judge Sotomayor. She handled herself well and patiently at the committee. She was asked a lot of tough questions, but if you want to be a Justice on the U.S. Supreme Court you have to be prepared for that. You should not submit yourself if you are not prepared for that. But she handled it nicely and courteously.

I think the Senators conducted themselves well also. A lot of people wanted to vote for her but, as the hearings went by and they studied the record, they concluded they were not able to vote for her based on philosophy and her approach to the law. But I think the committee hearing did what it was supposed to.

There have been no delays. This will be one of the fastest confirmations in history. Within a few hours we will be having an up-or-down vote on her confirmation, unlike what happened when Judge Alito—a fabulous nominee, in my opinion—was subjected to a filibuster before he was confirmed. She is going to be given an up-or-down vote in just a few hours.

I thank the Chair for this time. I look forward to the rest of the debate and final vote in a few hours.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Madam President, for a second time now, I come to the floor to voice my opposition to the nomination of Judge Sotomayor to be an Associate Justice. I cannot support her nomination because I am not persuaded she has the right judicial philosophy to be on the Supreme Court. I have spoken many times and have again spoken at the Judiciary Committee and on the floor at some length about my reasons for opposing the judge's confirmation, but I want to reiterate some of these reasons before we vote on her nomination about 2 hours from now.

It is the Senate's constitutional responsibility to thoroughly review the qualifications of the President's judicial nominations. This advice and consent process is especially important when we consider nominees to the Supreme Court, which obviously is the highest court in our land.

Both Chairman LEAHY and Ranking Member SESSIONS did an admirable job in conducting a fair but very rigorous examination of the judge's record. The nominee was asked tough questions, but she was also treated fairly and with respect, as is appropriate for all judicial nominees.

We want to make sure judicial nominees have a number of qualities, but superior intelligence, academic excellence, distinguished legal background, personal integrity, and proper judicial demeanor and temperament are not the only qualities we must consider in a judicial nominee. Judges, and in particular Supreme Court nominees, must have a true understanding of the proper role of a Justice as envisioned by the writers of the Constitution as well as an ability to faithfully interpret the law and Constitution without personal bias and prejudices. Since becoming a member of the Senate Judiciary Committee the very first year I came to the Senate in 1981, I have used this standard to confirm both Republican and Democratic Presidents' nominees for the Supreme Court.

Because Supreme Court Justices have the last say with respect to the law and have the ability to make precedent, they do not have the same kinds of restraints lower court judges have. So we need to be convinced these nominees have judicial restraint—in other words, the self-restraint to resist interpreting the Constitution to satisfy their personal beliefs and preferences. We need to be persuaded these nominees will be impartial in their judging and bound by the words of the Constitution and legal precedent. We need to be certain these nominees will not overstep their bounds and encroach upon the duties of the legislative and executive branch. That is our checks-and-balances system of government. Our American legal tradition demands that judges not take on the role of policymakers, reserved to those of us in the legislative branch, but that instead they check their biases and preferences and politics at the door of the courthouse. The preservation of our individual freedoms depends on limiting policymaking to legislators rather than on elected judges who have a lifetime appointment.

When then-Senator Obama voted against now-Chief Justice Roberts, he spoke from his desk over there about how a judge needed to have, in his words, ''empathy'' to decide the hard cases. He said:

> That last mile can only be determined on the basis of one's deepest values, one's core concerns, one's broader perspective on how the world works and the depth and breadth of one's empathy. . . . in these difficult cases the critical ingredient is supplied by what is in the judge's heart.

In another speech, President Obama further elaborated on this empathy standard:

> In those 5 percent of cases, what you've got to look at is what is in the Justice's heart. What's their broader vision of what America should be . . . We need somebody who's got the heart—the empathy—to recognize what it's like to be a young teenage mom, the empathy to understand what it's like to be poor or African-American or gay or disabled or old—and that's the criteria by which I'll be selecting my judges.

He spoke very well in that quote about the empathy those of us who were elected ought to have, but I think he spoke incorrectly about what judges should have. And when the President then nominated Judge Sotomayor to the Supreme Court, he did that with the belief that she meets his empathy standard.

President Obama's empathy standard has been widely criticized as contrary to the proper role of judges—and that is my point—and that is because an empathy standard necessarily connotes standards of impartiality. That is a very radical departure from our American tradition of blind impartial justice. In fact, even Judge Sotomayor repudiated President Obama's empathy standard at her confirmation hearing.

A judge's impartiality is so critical to his or her duty as an officer in an independent judiciary that it is mentioned three times in the oath of office for Federal judges. Every judge swears ''to administer justice without respect to persons,'' to ''do equal right to the poor and to the rich,'' and to ''faithfully and impartially discharge and perform all [his] duties.'' That is from the oath judges take. Therefore, empathetic judges who choose to embrace their personal biases cannot uphold their sworn oath.

If we are to have a government of laws and not of men and women, then our judges must not favor any party or class over another, whether they be historically privileged or historically disadvantaged. Our judges must decide the cases before them on the law this Congress writes and what it requires, even if the law compels a result that is at odds with the judge's personal, deeply held feelings.

The fact that we have an independent judiciary means that it is not a political body. In exchange for remaining unchecked by the will of the people, the judicial branch is required to maintain impartiality. This country was founded on the principle that justice is the same for everyone. No one is entitled to special treatment, whether by fate or fortune, because no man or woman is above the law.

No matter what you call it—empathy, compassion, personal bias, or favoritism—it can have no place in the decisionmaking process of a judge—it can have a place in decisionmaking by a Senator—but especially in the case of the judicial branch, notably the Supreme Court or a Supreme Court Justice.

While justice is not an automated or mechanical process, it also is not a process that permits a patchwork of cases where the outcome is determined not by the law but by the judge's personal predilections. Judges may differ on what the law is, but they should never reach a conclusion because of a difference in ideology or because of their empathy for one of the parties.

An empathy standard for judging would betray the very cause of equality that it purports to champion by creating classes among our citizens in the eyes of the law. That is what is so dangerous about President Obama's standard and why we should be cautious in deferring to his choices for the judicial branch. That is why we should continue to assess judicial nominees based on their fidelity to the rule of law and not on some well-intentioned hope or belief that the personal biases they will rely on in judging will be the right ones.

Unfortunately, Judge Sotomayor's speeches and writings over the years reveal a judicial philosophy that highlights the importance of personal preferences and beliefs in her judicial method. Her speeches and writings reveal her views of a judge and judicial decisionmaking process that are quite contrary to what our American tradition demands of the judiciary and our system of justice.

I will cite a few troubling statements she has made. She questioned ''whether achieving the goal of impartiality is possible at all in even most cases'' and also ''whether by ignoring our differences as men, women, people of color, we do a disservice to both the law and the society.''

She promoted identity politics where she openly admitted that ''[my experiences] will affect the facts I choose to see'' and that ''I willingly accept that . . . judge[s] must not deny the differences resulting from experience and heritage.''

She claimed that the court of appeals is where ''policy is made.''

She said that a ''wise Latina would more often than not reach a better conclusion than a white male.''

She disagreed with a statement by Justice O'Connor that ''a wise old woman and a wise old man would eventually reach the same conclusion in a case.''

She said that ''unless American courts are more open to discussing the ideas raised by foreign cases, and by international cases, that we are going to lose influence in the world,'' as if it is for the Supreme Court Justices to worry about our influence in the world. It seems to me the chief diplomat of our country is the President of the United States. She urged judges to look to foreign law so they can get their ''creative juices'' flowing.

At her confirmation hearing, Judge Sotomayor attempted to distance herself from these statements and explain them away, most likely recognizing that they were controversial and out of the mainstream. However, in my mind, she was not very successful. Even the Washington Post said Judge Sotomayor's testimony about some of her statements before the Judiciary Committee was ''less than candid'' and ''uncomfortably close to disingenuous.''

I was not the only one who had problems reconciling what Judge Sotomayor said at the hearing with the statements she has repeated over and over throughout the years. That is because the statements made at the hearing and those made in speeches and in law review articles outside the hearing are polar opposites. Some of her explanations were contrived or far-fetched. In my opinion, these statements in her writings and speeches cannot be reconciled with her hearing testimony. I am not sure which Judge Sotomayor I am to believe. She appears to be Justice Ginsburg in her speeches and writings but made statements like Chief Justice Roberts in her confirmation hearing.

So I think the Washington Post's conclusions are worth repeating:

> Judge Sotomayor's attempts to explain away and distance herself from that [wise Latina] statement were uncomfortably close to disingenuous, especially when she argued that her reason for raising questions about gender or race was to warn against injecting personal bias into the judicial process. Her repeated and lengthy speeches on that matter do not support that interpretation.

I am not only troubled by the speeches and writings of the judge—these were produced during her time as a sitting judge on the Second Circuit—and her contradictory statements before the Judiciary Committee but I also have concerns with cases Judge Sotomayor decided when she sat on the Second Circuit. Some cases raise serious concerns about whether Judge Sotomayor will adequately protect the second amendment right to bear arms and the fifth amendment property rights.

Statements she made at the hearing raise concerns that she will inappropriately create or expand rights under the Constitution. Other cases raise concerns about whether she will impose her personal policy decisions instead of those of the legislative or executive branch. In addition, Judge Sotomayor's track record on the Supreme Court is not a particularly good one. She has been reversed 8 out of 10 times and was criticized in another of the 10 cases.

At the hearing, Judge Sotomayor was asked about her understanding of rights under the Constitution, including the second and fifth amendments and the right to privacy. She was asked about her legal analysis in certain cases, like the Ricci, Maloney and Didden cases. She was also asked about how she views precedent and applies it in cases before her. Ultimately, I wasn't satisfied with her responses, nor was I reassured that Judge Sotomayor would disregard her strong personal sympathies and prejudices when ruling on hard cases dealing with important constitutional rights.

With respect to the Ricci case, I wasn't persuaded by Judge Sotomayor's claims that she followed precedent, nor her explanation as to why she could dismiss such a significant case in summary fashion. The only reason this case found its way to the Supreme Court was because her Second Circuit colleague read about it in the newspaper, recognized its importance, and asked to have it reconsidered. When the Supreme Court reversed Judge Sotomayor's decision, it held that there was no ''strong basis in evidence'' to support her opinion. In fact, her legal reasoning in Ricci was so flawed, all nine Justices rejected it.

With respect to the Maloney case, I was concerned with Judge Sotomayor's explanation of her decision holding that the second amendment right to bear arms is not ''fundamental,'' as well as her claims that she was simply following Supreme Court and Seventh Circuit precedent. I was also concerned with her refusal to affirm that Americans have a right of self-defense. If Maloney is upheld by the Supreme Court, the second amendment will not apply against State and local governments, thus permitting potentially unrestricted limitations on this important constitutional right.

With respect to the Didden case, I was troubled with Judge Sotomayor's failure to understand that her decision dramatically and inappropriately expands the ability of State, local, and Federal Governments to seize private property under the Constitution. In fact, based on the Didden holding, it is not clear whether there are any limits to the ability of State, local, and Federal Governments to take private property. I also was concerned with Judge Sotomayor's mischaracterization of the Supreme Court's holding in Kelo. And I wasn't satisfied with her explanation about why she summarily dismissed the property owner's claims based on the statute of limitations. I don't think these concerns are off the mark—the Didden case has been described as ''probably the most extreme anti-property rights ruling by any federal court since Kelo.''

So Judge Sotomayor's discussion of landmark Supreme Court cases and her own Second Circuit decisions raise questions in my mind about whether she understands the rights given to Americans under the Constitution. I question whether she will refrain from expanding or restricting those rights based on her personal preferences.

Almost two decades ago, then-Judge Souter during his confirmation hearing spoke about courts ''filling vacuums'' in the law. That discussion struck me as odd and troubled me, because clearly it is not the role of a court to fill voids in the law left by Congress. Although Judge Souter backtracked on his courts ''filling vacuums'' statement when I pressed him about it, I believe that his decisions on the Supreme Court actually reveal that he does believe courts can and do fill vacuums in the law. It is no secret that I regret my vote to confirm him. And because of that, I have asked several Supreme Court nominees about the propriety of judges ''filling vacuums'' in the law at their confirmation hearings. So this question shouldn't have come as a surprise to Judge Sotomayor when I asked her about it at her confirmation hearing. Unfortunately, I wasn't satisfied with her lukewarm answers to my question. In fact, it just reinforced the concerns I had with her hearing testimony, cases, speeches and writings.

Judge Sotomayor has overcome many obstacles to get to where she is today. There is no doubt that Judge Sotomayor is an engaging, talented, intelligent woman. She has tremendous legal experience and many other good qualities. I very much enjoyed meeting with her and getting to know her personally. But I can't just base my decision on these things. I have to look at her judicial philosophy and determine whether I believe it is one that is appropriate for the Supreme Court. That is my constitutional responsibility. And based on her answers at the hearing and her decisions, writings, and speeches, I am not comfortable with what I understand to be Judge Sotomayor's judicial philosophy. I am not persuaded that she will protect important constitutional rights, and I am not convinced that she will refrain from creating new rights under the Constitution. I am not persuaded that she won't allow her own personal biases and prejudices to seep into her decisionmaking process and dictate the outcome of cases before her. So it is with regret that I must oppose her nomination to the Supreme Court.

I said this in the Judiciary Committee, and I repeat it now on the floor. Only time will tell which Judge Sotomayor will sit on the Supreme Court. Is it the judge who proclaimed that the court of appeals is where ''policy is made,'' or is it the nominee who pledged ''fidelity to the law?'' Is it the judge who disagreed with Justice O'Connor's statement that a wise woman and a wise man will ultimately reach the same decision, or is it the nominee who rejected President Obama's empathy standard? Only time will tell.

Mr. CORKER. Madam President, Judge Sonia Sotomayor has an impressive background and an inspiring American story. She is a testament to the power of a strong work ethic and a focus on education and is a role model to many Americans as a result.

I enjoyed meeting with her in June and found her to be very intelligent and eloquent in expressing her thoughts. I let her know I would reserve judgment on her nomination until the conclusion of a fair and thorough hearing process.

After much deliberation and careful review, I have determined that Judge Sotomayor's record and many of her past statements reflect a view of the Supreme Court that is different from my own.

I view the Supreme Court as a body charged with impartially deciding what the law means as it is applied to a specific case. I believe Judge Sotomayor views the Supreme Court as more of a policymaking body where laws are shaped based on the personal views of the justices.

Unfortunately, nothing I heard during Judge Sotomayor's confirmation hearing or in my meeting with her in June sufficiently allayed this concern.

For this reason, I am disappointed to say, I will not be able to support Judge Sotomayor's nomination.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent that this hour under Democratic control be divided in the following manner: REED of Rhode Island, 15 minutes; Senator CARPER, 10 minutes; Senator KERRY, 10 minutes; Senator MENENDEZ, 5 minutes; Senator SCHUMER, 5 minutes; Senator NELSON of Florida, 3 minutes; and Senator BOXER, 10 minutes.

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

Mr. REED. Mr. President, the nomination before us of Sonia Sotomayor to replace Associate Justice David Souter is of great importance. The Supreme Court is the ultimate arbiter of justice

in the land. Therefore, this is one of the most consequential votes that any Senator can cast.

The Constitution makes the Senate an active participant, along with the President, in the confirmation of a Supreme Court justice. Article II, section 2, clause 2 of the Constitution states that nominees to the Supreme Court shall only be confirmed ''by and with the Advice and Consent of the Senate.'' The Senate's role in the confirmation process places an important democratic check on America's judiciary. As a result, this body's consent is both a constitutional requirement and a democratic obligation. It is in upholding our constitutional duties as Senators to give the President advice and consent on his nominations that I believe we have one of our greatest opportunities and responsibilities to support and defend the Constitution of the United States.

As I have said before, in weighing a nominee's qualifications for the Court, we must consider an individual's intellectual gifts, experience, judgment, maturity and temperament. Judge Sotomayor's compelling life story demonstrates that she possesses each of these qualities.

She overcame early adversity—with the loss of her father, a diagnosis of juvenile diabetes—to become an accomplished student at her high school. She went on to Princeton, where she excelled both inside and outside of the classroom, receiving the school's highest academic prize upon graduation.

From there she became a stellar student at Yale Law School and served on its prestigious law journal. Upon graduating from Yale, Judge Sotomayor surely had a number of very lucrative options available to her. It is a testament to her early commitment to public service that she chose to serve 5 years as assistant district attorney in New York.

By all accounts, she was a zealous and thorough prosecutor and demonstrated the same rigor and commitment to excellence that have been her hallmark throughout her career.

Judge Sotomayor is extremely qualified for this role. As a Supreme Court Justice, Judge Sotomayor would bring to bear her rich and varied real-world experience. She has been a big-city prosecutor. She has been an attorney in private practice. She has been a trial judge, and she also knows what it means to be an appellate judge. Judge Sotomayor would make history as only the third female Justice and the first Hispanic Justice. Moreover, she has more Federal judicial experience than any nominee to the Court in 100 years.

Yet as compelling as these qualities and accomplishments are, there is a higher bar for a nominee to the Nation's highest Court. In previous consideration of Supreme Court judges, I have stated my test for a nominee for the Supreme Court. It is a simple test, one drawn from the text, the history and the principles of the Constitution. A nominee to the Supreme Court must live up to the spirit of the Constitution. A nominee must not only commit to enforcing the laws but also to doing justice. A nominee must give life and meaning to the great principles of the Constitution: Equality before the law, due process, freedom of conscience, individual responsibility, and the expansion of opportunity.

In my view, Judge Sotomayor has met this test quite admirably. Judge Sotomayor's opinions demonstrate that she is no ideologue. Instead, she seeks to carefully weigh the facts in determining a just and fair outcome.

One issue of great concern at this time of conflict is executive power. As Commander in Chief, the President's duty is to guard the country's national security while also safeguarding individual freedoms. All too often, in my view, President Bush, guided by other government officials and questionable legal opinions, erred on the side of concentrating executive power. Indeed, I noted during my comments on Judge Alito's nomination that his avowal of the unitary executive theory was troubling in light of the Bush administration's policies. Judge Sotomayor's record on this issue suggests that she would more appropriately balance national security and individual freedom, and the role of Congress.

In the case of Doe v. Mukasey, she joined a unanimous panel decision that stated:

> The fiat of a governmental official, though senior in rank and doubtless honorable in the execution of official duties, cannot displace the judicial obligation to enforce constitutional requirements. ''Under no circumstances shall the Judiciary become the handmaiden of the Executive.''

But she has also shown a clear recognition that within the appropriate sphere, the executive must be supported. In Cassidy v. Chertoff, she authored a unanimous panel opinion on the constitutionality of a ferry company's search of baggage and vehicles. The panel ultimately concluded that searches were permissible because ''it is minimally intrusive, and we cannot say, particularly in light of the deference we owe to the Coast Guard, that it does not constitute 'a reasonable method of deterring the prohibited conduct.' ''

In answering questions from my colleagues on the boundaries of presidential power during her confirmation hearing, Judge Sotomayor chose her words carefully. However, she was clear in affirming that no one is above the law. On this issue and many others, Judge Sotomayor has demonstrated a fair and balanced approach that will add to the high Court.

I believe Judge Sotomayor would be an able successor to Judge Souter a court that in recent years has taken a sharp turn away from protections of privacy, freedom, and other values we hold dear.

Judge Sotomayor's careful application of the facts to the Constitution and the quest for justice persuade me that she will make a worthy addition to our Nation's highest Court. Indeed, she meets my test as someone who will not only uphold the letter of the law but the spirit of the law. It is with great pleasure that I support her nomination to the highest Court in the land and urge my colleagues to do the same.

I ask unanimous consent to have printed in the RECORD a joint letter of support signed by more than 1,200 law professors from all 50 States and the District of Columbia. In their joint letter, these professors write:

> Her opinions reflect careful attention to the facts of each case and a reading of the law that demonstrates fidelity to the text of statutes and the Constitution. She pays close attention to precedent and has proper respect for the role of courts and the other branches of government in our society.

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

Hon. PATRICK J. LEAHY,
Chairman, U.S. Senate Committee on the Judiciary, Russell Senate Office Building, Washington, DC.

Hon. JEFFERSON B. SESSIONS,
Ranking Member, U.S. Senate Committee on the Judiciary, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: We the undersigned professors of law write in support of the confirmation of Judge Sonia Sotomayor as an Associate Justice of the United States Supreme Court.

As a federal judge at both the trial and appellate levels, Judge Sotomayor has distinguished herself as a brilliant, careful, fair-minded jurist whose rulings exhibit unfailing adherence to the rule of law. Her opinions reflect careful attention to the facts of each case and a reading of the law that demonstrates fidelity to the text of statutes and the Constitution. She pays close attention to precedent and has proper respect for the role of courts and the other branches of government in our society. She has not been reluctant to protect core constitutional values and has shown a commitment to providing equal justice for all who come before her.

Judge Sotomayor's stellar academic record at Princeton and Yale Law School is testament to her intellect and hard work, and is especially impressive in light of her rise from modest circumstances. That she went on to serve as an Assistant District Attorney for New York County speaks volumes about her strength of character and commitment to the rule of law. When in private practice as a corporate litigator in New York, she was deeply engaged in public activities, including service on the New York Mortgage Agency and the New York City Campaign Finance Board, as well as serving on the Board of Directors of the Puerto Rican Legal Defense and Education Fund.

Her career won bi-partisan respect, which led to her becoming a U.S. District Court judge (nominated by President George H.W. Bush on the recommendation of Senator Daniel Patrick Moynihan, and confirmed by a majority Democratic Senate in 1992). Her performance on the district court solidified Judge Sotomayor's support, and in 1998 she was elevated to the Second Circuit (nominated by President Bill Clinton and confirmed by a majority Republican Senate).

Judge Sotomayor will bring to the Supreme Court an extraordinary personal story, academic qualifications, remarkable professional accomplishments and much needed ethnic and gender diversity. We are

confident that Judge Sotomayor's intelligence, her character forged by her extraordinary background and experience, and her profound respect for the law and the craft of judging make her an exceptionally well-qualified nominee to the Supreme Court and we urge her speedy confirmation.

Mr. REED. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CARPER. Mr. President, I rise in support of Judge Sonia Sotomayor's confirmation to the U.S. Supreme Court. Those of us who are privileged to serve in the Senate cast literally thousands of votes during our years here. We take many votes that crucial and important. But a handful of them are far more meaningful than others. These votes have historic consequences, ones which will resonate for years—in some cases, for decades—to come. This is one of those votes.

This is my third opportunity to vote on a Supreme Court nominee. On the previous two occasions, we faced different circumstances in which I had to decide whether to vote for or against candidates who were nominated by a President not of my party, nominees who may not have shared my political beliefs or my judicial philosophy. Similar to my colleagues, I take seriously our constitutional obligation to provide advice and consent to determine whether a President's nominees truly merit a lifetime appointment.

In each of those two earlier cases, I considered my decision carefully and deliberately. In one of those cases, that of now-Chief Justice John Roberts, I chose to support the President's selection. In the other, I did not. Reasonable people can disagree about the nominee before us this week. I certainly respect the views of my friends on the other side of the aisle who may ultimately vote against Judge Sotomayor's confirmation. But, first, I wish to explain why I am supporting Judge Sotomayor and, second, I want to encourage my Republican colleagues to support her nomination as well.

In 2005, I voted to confirm Judge John Roberts' nomination to become Chief Justice of the Supreme Court. I admitted it was a close call, at least it was for me. Ultimately, I chose to take what I described at that time as a ''leap of faith.''

Chief Justice Roberts holds political and legal opinions that are not consistent totally with mine in a number of respects. I knew he would sometimes deliver decisions I might not fully agree with. But after carefully considering his testimony, meeting with him at some length, and personally talking to a number of his colleagues—colleagues who knew him well and colleagues who had worked closely with him in the past—I concluded that John Roberts would prove to be a worthy successor to retiring Chief Justice Rehnquist, and I think he has.

In short, by supporting John Roberts' nomination, I voted my hopes, not my fears. Just as I voted my hopes instead of my fears in the case of then-Judge, now-Chief Justice Roberts, I hope many of our friends and colleagues on the other side of the aisle will see their way clear to doing the same in this instance.

Before coming to the Senate, I served as Governor of Delaware. As Governor, I nominated dozens of—actually scores of—men and women to serve as judges in our State courts. The qualities I sought in the judicial nominees whom I submitted to the Delaware State Senate included unimpeachable integrity, a thorough understanding of the law, a keen intellect, a willingness to listen to both sides of a case, sound judicial temperament and judgment, and a strong work ethic.

These are qualities that still guide me as I decide how to vote on judicial nominees in the Senate. In applying each of those standards to Judge Sotomayor during the course of my examination of her record, it is clear to me she meets or exceeds all of them.

First, consider her experience. Judge Sotomayor has a compelling life story—a story that confirms her work ethic and informs her judicial temperament. In June of this year, I had the pleasure of meeting personally with Judge Sotomayor. We spoke at length about her experience, her service, and her life. We talked about our respective childhoods, our respective educational opportunities, and our careers. It was a revealing conversation, and her responses were forthright. They were insightful. And they were sincere.

The nominee before us truly highlights the diversity of the country in which we live. We know her story by now. Sonia Sotomayor grew up in a south Bronx housing project. Her parents were both immigrants from Puerto Rico. Her father had limited education and did not speak English.

Her mom worked 6 days a week to support her family and instilled in her daughter the importance of a quality education. Judge Sotomayor excelled in school and went on to attend Princeton University on a scholarship. She later went on to Yale Law School, where she served as an editor of the Yale Law Journal.

I have met many people in my life who have built themselves up from nothing. Unfortunately, I have found that a number of them—maybe many of them—seem to have forgotten where they came from. But it is clear to me that Sonia Sotomayor has not forgotten. When we met, she told me she was ''still Sonia from the projects.'' Despite all her success, she still has not forgotten her roots. Let me say, I find that enormously refreshing and encouraging.

After law school, Sonia Sotomayor served as an assistant district attorney in New York. During her 5 years in that position, she tried dozens of major criminal cases and became known, in the words of Robert Morgenthau—who was then, and still remains, the district attorney in Manhattan—as a ''fearless and effective prosecutor.''

Starting in 1984, Sonia Sotomayor spent 8 years in private practice. As a civil and international corporate litigator, she gained considerable experience in the private sector, handling cases involving everything from real estate to contract law, from intellectual property to banking.

Then, in 1992, with bipartisan support, Sonia Sotomayor began her service to this country in the Federal judiciary. She was nominated to serve as a Federal district judge, not by a Democrat but by a Republican, President George Herbert Walker Bush, and was unanimously—unanimously—confirmed by this Senate.

Six years later, when Democratic President Bill Clinton nominated her to the Second Circuit Court of Appeals, she received the support of 25 of our colleagues on the other side of the aisle. Their vote of confidence in Judge Sotomayor then has since been confirmed by her reputation for moderation and impartiality.

The Second Circuit is considered by many to have one of the most demanding caseloads in our Nation. Judge Sotomayor participated in over 3,000 decisions and has written more than 230 opinions for the majority. During her time on the bench, she examined difficult issues of constitutional law, complex business disputes, and high-profile criminal cases.

Judge Sotomayor brings more Federal judicial experience to the Supreme Court than any Justice confirmed in the last 100 years.

As a Federal judge for nearly two decades, Sonia Sotomayor has demonstrated a clear commitment to unbiased, impartial justice and to the rule of law. Unlike some nominees for the Federal bench, with Judge Sotomayor, we can see a long paper trail of her legal rulings.

Her record reveals that she consistently takes each case on its own merits—regardless of the ideological outcome—and narrowly applies the law to the particular facts. She may even be more of a strict constructionist, when it comes to applying the law, than many of the Justices my friends on the other side of the aisle admire the most. Quite frankly, she is a model of judicial restraint.

As a circuit court judge, Sonia Sotomayor is known as a moderate who agrees with her more conservative colleagues far more than she disagrees with them. One of those colleagues on the Second Circuit, Richard C. Wesley, himself an appointee of George W. Bush, had this to say about her:

Sonia is an outstanding colleague with a keen legal mind. She brings a wealth of knowledge and hard work to all her endeavors on our court. It is both a pleasure and an honor to serve with her.

Another Second Circuit colleague, Judge Roger Miner, who was appointed by President Ronald Reagan, described Judge Sotomayor as an ''excellent choice,'' saying:

I don't think I'd go as far as to classify her in one camp or another. I think she just deserves the classification of outstanding judge.

And the Second Circuit's current chief judge, Dennis Jacobs, appointed by the first President Bush, said:

Sonia Sotomayor is a well-loved colleague on our court. Everybody from every point of view knows that she is fair and decent in all her dealings. The fact is, she is truly a superior human being.

The strength of Judge Sotomayor's record and reputation is perhaps why, to some extent, many critics have focused almost exclusively on one or two legal rulings, and on a line from a speech she gave years ago. But I do not find much to agree with in these criticisms. But even if I did, it does not seem fair to me that she should be judged on those few items alone. These few quibbles need to be put in the context of her lifetime of work.

Of all people—of all people—we in the Senate should understand this. As Senators, whether we have served here for 12 years or 24 years or for 50 years, such as ROBERT BYRD has done, we will vote thousands of times. As many of us know from personal experience, it is easy to take one vote or one decision or one line from one of our speeches completely out of context and make us appear to be someone we are not or to stand for something that is entirely alien to our beliefs and values. It has happened to me. I suspect it has happened to most, if not all, of our colleagues. I might add, I believe that is what has happened to the nominee before us today.

As a result, I believe it is incumbent upon us to examine carefully a nominee's overall record, much as I hope the people of Delaware will consider my overall record when they cast their votes every 6 years.

If nothing else, Judge Sotomayor's extensive record demonstrates she sticks to the law. Perhaps that is why, in part, the American Bar Association has given this judge, this nominee, its top rating of ''well qualified'' in assessing her record and in evaluating her judicial temperament.

For all these reasons—and more—I invite my conservative colleagues on the other side of the aisle to take a leap of faith, as I did a few years ago with John Roberts—as I did 4 years ago—and join me in casting their vote in favor of Judge Sotomayor's nomination to serve on the U.S. Supreme Court.

With that, I say thank you to the Presiding Officer and yield the floor.

Mr. BYRD. Mr. President, I have never missed a vote on a nomination for a Supreme Court Justice in my time in the Senate. Today, I will vote to support the nomination of Judge Sonia Sotomayor. I submitted questions to Judge Sotomayor on matters of great importance to the preservation of congressional power: the constitutional grant of the purse strings to the Congress; the role and responsibility of the legislative branch to conduct oversight and investigation; and the deliberate restraints on the executive branch created by the Constitution's separation of powers. I found her answers thoughtful, her intellect keen, and that Judge Sotomayor possessed the requisite reverence—and patience—for the process outlined in article II, section 2 of the Constitution.

I watched the hearings intently; I studied Judge Sotomayor's words. What struck me about the Judiciary Committee's hearings was the dearth of inquiry into her judicial record. Indeed, her record is certainly substantial; the most substantial record I have seen in some time. But, instead of delving into her many opinions, or questioning her on Supreme Court jurisprudence, Judge Sotomayor was asked the same few questions over and over, needlessly.

The tendency to grandstand is hardly a partisan thing. The Senate's ability to question a nominee is a precious gift from our Founding Fathers—a check on the Judiciary and on the Executive. While the President may nominate, the advice and consent of the Senate is required for confirmation. But, in this particular instance, partisan trifles took the place of constitutional probing. Statements were taken out of context, while volumes of Judge Sotomayor's judicial record went unquestioned, and likely unread. Unfortunately, by not probing, the Senate shirks its responsibilities.

Judge Sotomayor's story is similar to my own story. Much like my own journey from the southern coalfields of Raleigh County to the U.S. Senate, Judge Sotomayor overcame tremendous adversity through determination and hard work.

Judge Sotomayor will be confirmed by the Senate. That is a good thing. I hope that we as a body will reflect on the nomination and confirmation processes as envisioned in the Constitution, and ask ourselves whether we can do a better job in living up to the spirit of the law in the future.

Mr. ROCKEFELLER. Mr. President, I rise today to announce my full support for the confirmation of Judge Sonia Sotomayor to be our Nation's 111th Supreme Court Justice. I am proud of Judge Sotomayor's dedication to her country, and I am impressed by her outstanding accomplishments. Today marks an historic occasion for our country, as Judge Sotomayor becomes only the third woman and first Hispanic ever to serve on the highest Court in the land.

The decision of whether to confirm a nominee for a lifetime appointment to the U.S. Supreme Court is one of the Senate's most significant and solemn duties under the Constitution. It will affect generations of Americans for years to come.

After 24 years of service to the people of West Virginia as their U.S. Senator, the nomination of Judge Sotomayor marks the 11th Supreme Court nominee under five Presidents that I have had the opportunity to consider. I have supported most nominees, but have opposed some. In each instance, I came to my decision after a careful and thorough process, and the same is true of my support for Judge Sotomayor.

The first question that must be answered about any nominee is: Does he or she possess the intellect, experience, and temperament to serve on the Supreme Court? For Judge Sotomayor, the clear answer is yes.

Her educational and professional background is impeccable. She was valedictorian of her high school class, graduated summa cum laude from Princeton University, and served as an editor of the Yale Law Journal while attending Yale Law School. Judge Sotomayor has served with distinction on almost every level of our judicial system as a prosecutor, civil litigator, district court judge, and appeals court judge. In her confirmation hearings before the Judiciary Committee, she showed herself to be an even-tempered and honest person, as well as a straightforward and critical thinker.

But once a nominee's impressive credentials and integrity are established, my analysis of his or her fitness to serve on the Supreme Court cannot end. The tremendous responsibility that all Justices have to the Constitution—and their decisions' impact on all Americans requires further consideration of the nominee's core beliefs about our country and our justice system.

Before supporting a nominee, I need to know that he or she understands the consequences of the Supreme Court's decisions. I need to know that he or she will protect the best interests of West Virginians. And I need to know that he or she will uphold the fundamental rights and freedoms that all Americans enjoy under the Constitution and in our laws.

Every American needs to know that our courthouse doors are open for everyone, not just the wealthy, the powerful, or the well-connected. The Founders intended our courts to serve as a place where all citizens can go to resolve disputes, seek relief from injustices, and hold wrongdoers accountable. As members of our court of last resort, Supreme Court Justices have a particularly important role in upholding our constitutional freedoms, even when lawmakers or public opinion would limit them.

To understand the enormously important role of the Court in the lives of Americans, we need only look at cases such as Gideon v. Wainwright, in which the Court recognized the fundamental right of defendants to be represented by counsel, even those who cannot afford to hire an attorney; or Brown v. Board of Education, in which the Court struck down racial segregation in our

public schools. These are the types of decisions that require a deep respect for our Constitution and the courage to do what is right.

After meeting with Judge Sotomayor in person and reviewing her extensive judicial record, I firmly believe that she possesses those qualities, and will always put the American people first.

I also believe that she understands the real world implications of our laws and how they affect the lives of everyday people. She knows what it is like to overcome adversity and work against the odds to become a successful lawyer and judge. In her, I see someone who shares the values that are important to West Virginians: hard work; determination; love for her country; love for her family; and a sense of pride in her community. It is no surprise that her nomination is supported by Democratic and Republican officials; conservatives, liberals, and moderates; prosecutors and law enforcement organizations; civil rights organizations; former colleagues; and fellow jurists.

I am disappointed that some of my colleagues have suggested that Judge Sotomayor's comments in a few of her speeches indicate that she will let personal biases influence her decisionmaking. I could not disagree more. Her extensive judicial record reflects a fair, thoughtful, and careful approach to decisionmaking—one that is based on meticulous analysis of the facts and a close following of the law and precedent.

As a trial court judge, she presided over approximately 450 cases. As an appeals court judge, she participated in over 3000 decisions and authored approximately 400 published opinions. With 17 years of service on the bench, she brings more Federal judicial experience to the Supreme Court than any nominee in nearly 100 years.

Judge Sotomayor's record speaks for itself, and I commend President Obama for nominating such a highly qualified individual to serve my fellow West Virginians and Americans on the Supreme Court.

Mr. CONRAD. Mr. President, the story of Sonia Sotomayor's life is a remarkable one. Born in humble circumstances, she has risen to the top of the legal field, and earned the opportunity to be considered for a place on America's highest court.

As evidenced by her exceptional educational achievements, and her vast and varied legal resume as a prosecutor, private practice litigator and Federal judge, Sonia Sotomayor is unquestionably qualified from the standpoint of experience, competence, and intellect. In fact, having been appointed to the Federal bench in 1992 by President George H.W. Bush, she has more Federal judicial experience than any Supreme Court nominee in 100 years, and more overall judicial experience than any nominee in 70 years.

Judge Sotomayor's record places her squarely within the mainstream of American jurisprudence. Even some of her harshest critics have conceded that her long record on the bench is one of mainstream decisions and judicial opinions.

And Judge Sotomayor's record shows that she is not an activist and has not legislated from the bench. Instead, she has faithfully adhered to precedent. In fact, the nonpartisan Congressional Research Service, CRS, found that ''perhaps the most consistent characteristic of Judge Sotomayor's approach as an appellate judge has been an adherence to the doctrine of stare decisis (i.e., the upholding of past judicial precedents).'' Further, CRS found that Sotomayor has exhibited ''a careful application of particular facts at issue in a case and a dislike for situations in which the court might be seen as overstepping its judicial role.''

Finally, Judge Sotomayor has the temperament to serve on the Supreme Court. Her grueling nomination hearings demonstrated her patience, thoughtfulness and composure in the face of tough and aggressive questioning by almost 20 Senators over several days.

Those same qualities of character were evident during our personal meeting. During our wide-ranging discussion, I also found Judge Sotomayor to be genuine, humble and open-minded. Although she grew up in an urban setting, I am confident that she can relate to people from more rural areas like North Dakota, because she understands everyday people and their struggles, she has common sense, and she is no stranger to hard work and the need to overcome obstacles. In short, I believe she learned the same values and the same lessons growing up in the Bronx that I learned growing up in Bismarck.

Some Senators have announced their intention to vote against Judge Sotomayor, but their criticism has not been based on a comprehensive assessment of her 17-year record as a judge, or her 30 years in the legal profession. One source of opposition has been various comments she has made in speeches, particularly on the topics of race and gender. Judge Sotomayor herself has admitted that she could have phrased some of her comments in these areas more effectively or appropriately. But when taken in their full context, her remarks seem to be primarily an expression of support for the unique American ''melting pot'' and the notion that a diversity of backgrounds has made us a stronger and better nation. Perhaps more importantly, there is no evidence whatsoever that her personal views have improperly influenced her decisions in the courtroom.

Some have also questioned Sotomayor's views on gun rights, and, in particular, whether or not she believes the second amendment restricts the right of individual States to regulate firearms. Despite the concerns that have been raised, a careful reading of her judicial record indicates that she has been very much in the judicial mainstream on gun issues. And she clearly stated during her confirmation hearings that she has a completely open mind on the specific question of how the second amendment should be applied to the States. I take her at her word, and it is my hope that the Supreme Court will indeed find that the second amendment protects the rights of gun owners and users against intrusion by State laws.

When voting on judges, all we can do is look at the nominee's record and accomplishments, analyze his or her intellect and character, and decide whether he or she is qualified to serve on the bench. I have consistently followed that approach in the past, most recently in voting to confirm Chief Justice Roberts and Justice Alito. Using the same standards I applied to those nominations, I believe Sonia Sotomayor is eminently qualified for a place on the Supreme Court, and I am proud to support her nomination.

Mr. JOHNSON. Mr. President, there are few decisions that have a more lasting effect on our democracy than fulfilling my constitutional duty of advice and consent for Justices of the Supreme Court. This body will assume this tremendous responsibility once again today as we consider the nomination of Judge Sonia Sotomayor to fill a seat on the Supreme Court that has been vacated by Justice David Souter. She is the third woman to be nominated to the Supreme Court and the first nominee to be of Hispanic descent.

This will be the third time that I have cast a vote in regards to a Supreme Court Justice. The previous two times were for current Chief Justice Roberts and current Associate Justice Alito. Both of these Justices were appointed by former President George W. Bush. I voted in favor of both of these nominees even though their ideologies often differ from my own. They are both qualified members of the Judiciary and while our philosophies may differ, they both are, and were, within the broad mainstream of contemporary jurisprudence.

It is within this mainstream that I find Judge Sonia Sotomayor. Her career as a jurist is a model of integrity and discipline. Her judicial philosophy is rooted in precedent and a devotion to the law. Judge Sotomayor has consistently pledged during the confirmation process her commitment to the law. She has stated that it is her duty to interpret the law and not to enact law. She has many years of service and experience as a prosecutor and litigator; district court judge and circuit court Judge. She has twice received bipartisan support from this body—the second time with my support. She has received the highest rating from the American Bar Association. It is clear that she has an accomplished résumé.

Earlier this summer, I met with Judge Sotomayor to form my own opinions on her judicial theory. While our conversation centered on a variety of interests, it was clear that Judge

Sotomayor distinguished herself as an able jurist who relied on precedent. I reviewed her record and did not find anything that would deter me from that belief. The same can be said of her testimony before the Senate Judiciary Committee during her confirmation hearings. She has said that she does not inject personal bias in her decision making process and I trust her at her word.

Often, I think that this process has become overpoliticized. Judge Sotomayor is highly qualified and able to serve on the U.S. Supreme Court. Opposition for opposition's sake is not constructive to our national dialogue. However, while I believe the President should have some latitude in selecting judges this does not mean that those nominees should be ideologues that stand outside of conventional judicial theory. Most Americans do not sit on the ends of the political spectrum but within the middle. I believe that Judge Sotomayor is within that middle ground. I support Judge Sotomayor to be Associate Justice of the U.S. Supreme Court and look forward to casting my vote in favor of this historic nominee.

Ms. MIKULSKI. Mr. President, today I rise to address one of the most significant and far reaching decisions a Senator makes: The vote on a confirmation of a Supreme Court Justice. This vote will have an immense impact on future generations. A Senator is called upon to make two decisions that are irrevocable; one is the decision to go to war and the other is the confirmation of the members of the Supreme Court. The people of Maryland have entrusted in me the right make this decision and I take this responsibility very seriously.

When I decide how I will vote on any nominee for the Federal bench, I have three criteria. First, the nominee must possess the highest personal and professional integrity. Second, the nominee has to have the competence and temperament to serve as a judge. Finally, the nominee must demonstrate a clear commitment to core constitutional principles. Judge Sonia Sotomayor passes all those tests with flying colors.

If confirmed, Sonia Sotomayor would be the third woman to serve on the Supreme Court and the first Hipanic on the Supreme Court. She has a compelling personal story, as well as a distinguished judicial record. Her father was a tool-and-die worker with third grade education who spoke no English and died when Judge Sotomayor was only nine years old. She was raised by her mother, a nurse in a public housing project in the Bronx, New York. After her father's death, she turned to reading Nancy Drew mystery novels, which inspired her love of reading and learning that put her on a path that ultimately led her to the law. Sotomayor excelled in school, graduated top of her class at Blessed Sacrament and Cardinal Spellman High School. She won a scholarship to Princeton University where she graduated summa cum laude and Phi Beta Kappa. She then attended Yale Law School and served as an editor for the Yale Law Journal.

Sonia Sotomayor's competence cannot be questioned. She is a champion of the law with a distinguished legal career spanning three decades. She has served at almost every level of the judicial system and she is the first Supreme Court nominee in 50 years to have served as a trial judge. She began her legal career as a fearless and effective prosecutor, working in the Manhattan District Attorney's Office for 5 years where she tried dozens of criminal cases from street crimes, to child abuse, police misconduct and homicides. She then became a corporate litigator for over 8 years in private practice. She made partner at the law firm where she tried complex corporate cases, including intellectual property, trademark and copyright infringement, real estate and banking.

For nearly two decades, Sonia Sotomayor has been a sharp and fearless trial judge. In 1992, President George H.W. Bush nominated Sotomayor to serve as a Federal district judge and she was unanimously confirmed by the Senate. As a Federal district court judge, she heard over 450 cases during 6 years as trial judge and ruled against Major League Baseball owners to end the baseball strike. She was then nominated by President Clinton to the Second Circuit Court of Appeals and confirmed by the Senate on a vote of 69–29. She has been a tough, fair and thoughtful appellate judge who has written over 400 opinions, of which the Supreme Court reviewed only five cases and reversed only three of those opinions. Sonia Sotomayor understands upholding the law means the consistent, fair and common sense application of the law. She has an understanding of real world consequences of decisions and recognizes that her job as a judge is to interpret the laws passed by Congress and not making laws from the bench. Under her tenure as a judge, she has demonstrated a level head, the ability to handle difficult situations with a calm and thoughtful temperament, and is well respected among her colleagues.

Judge Sotomayor's integrity is unquestioned. Throughout her career she has worked to make sure that the courthouse doors are open to all. She was raised by hardworking parents who instilled strong work ethic. Throughout her life she has been active in her community and serves as a role model. She mentors kids from troubled neighborhood, teaches at-risk high school students job and life skills, and helps find summer jobs for these students. In addition, Sonia Sotomayor holds uncompromising views on judicial independence and has demonstrated she is an independent thinker dedicated to the rule of law. Sotomayor has stated that the Constitution should not be bent under any circumstance and from the bench she has shown she is a moderate judge who respects judicial precedent. In fact, 95 percent of her decisions have been favored by Republican appointees on the Second Circuit and she is well known for her judicial restraint.

In sum, Sonia Sotomayor is an outstanding nominee to the highest court in the United States and an inspiration to all Americans. She is living proof that the American dream can be achieved. She is the daughter of hardworking immigrants, who overcame obstacles, went to Ivy League schools on scholarship, and has served for over 17 years as a Federal judge. Today I am proud to say when my name is called, I will vote aye.

Mr. NELSON of Nebraska. Mr. President, I wish today to discuss the nomination of Judge Sonia Sotomayor to the U.S. Supreme Court and share the reasons why I will cast my vote in favor of her confirmation.

For me, the single most important consideration in deciding whether to provide my consent to a judicial nomination is an assessment of whether the judge will bring an ideology to the bench, seeking to advance a set agenda regardless of the facts a case presents and the laws and precedents at hand. I believe—as most Nebraskans and Americans believe—that a political agenda belongs in the political branches, and thus activists and would-be policymakers should seek legislative or executive office if they want to make laws and set policy.

Judges, on the other hand, must show respect for the laws and Constitution of The United States and deference to settled law and precedent. The role of a judge is to adjudicate impartially; and the impartial application of justice should be devoid of personal views and political agendas.

Judge Sonia Sotomayor's education and legal career show that she is a brilliant woman with a breadth and depth of legal experience. She has been a prosecutor, an attorney in private practice, a trial court judge, and an appellate judge. I am particularly impressed by her record on the bench, where she has earned a reputation as tough on crime, fair on the facts and the law, respectful of precedent, and mindful of the limited role of the judiciary.

Judge Sotomayor has pledged fidelity to the law, and her extensive record of upholding the law as a trial and appellate judge is a concrete example of how she has carried out this pledge. Her 17-year record provides evidence of a restrained and mainstream judicial philosophy and shows that she has not been an activist. An objective review of Judge Sotomayor's record shows a fair, impartial, and humble judge.

For example, in addition to achieving a unanimous rating of ''well qualified'' from the American Bar Association's Standing Committee on the Federal Judiciary, the highest rating possible, Judge Sotomayor has won praise for

her judicial restraint. Of particular importance to me was this statement by the ABA Committee: ''Judge Sotomayor's opinions show an adherence to precedent and an absence of attempts to set policy based on the judge's personal views. Her opinions are narrow in scope, address only the issues presented, do not revisit settled areas of law, and are devoid of broad or sweeping pronouncements.''

In addition, the nonpartisan Congressional Research Service analyzed her record as a judge and concluded: ''Perhaps the most consistent characteristic of Judge Sotomayor's approach as an appellate judge has been an adherence to the doctrine of stare decisis (i.e., the upholding of past judicial precedents). Other characteristics appear to include what many would describe as a careful application of particular facts at issue in a case and a dislike for situations in which the court might be seen as overstepping its judicial role.'' This is high praise indeed, for those of us like me who value a limited role and eschew judicial activism.

Having discussed some of the reasons why I believe Judge Sotomayor is fit to serve on the High Court, I would like to take a moment to respectfully address some of the concerns and criticisms that some of my constituents and a certain few of my colleagues have raised about Judge Sotomayor.

Foremost, I believe that actions speak louder than words. Throughout this confirmation process, certain comments Judge Sotomayor has made outside of the courtroom have been the subject of much criticism. Indeed, some of these remarks could be cause for concern if they proved to slant the judge's approach to the law or impede her ability to render an unbiased opinion. But after examining her record, meeting personally with her, and observing the Judiciary Committee hearings, I am convinced that Judge Sotomayor will approach the Supreme Court with the same unbiased fidelity to the law that has marked her distinguished career thus far. Simply put, I see no significant evidence that she has manipulated the facts of cases or interpretations of the law in the courtroom to alter the outcome of a case.

In addition, some have singled out a handful of decisions the judge has participated in as grounds for disqualification. Mr. President, I do not expect a judge to agree with me all of the time, just as I do not agree with all the laws or all the precedents on the books; however, I firmly believe that disagreeing with a law or a precedent is not grounds for a judge to rewrite the law as he or she sees fit. And while I may not personally agree with the outcome of every single case Judge Sotomayor has decided, it is clear to me that her opinions were informed by facts, bound by precedents, and faithful to the law.

Judge Sotomayor has decided more than 3,000 cases as a member of the Second Circuit Court of Appeals. Only 13 of these have been reviewed by the Supreme Court; only 5 have been reversed. Of the opinions she authored, five were reviewed, her opinion was upheld in two, and she was reversed or vacated in three. This compares favorably with recent Supreme Court reversal rates and with recent Supreme Court nominees.

My approach to confirmation of judicial nominees has not changed during my time in the Senate. I have voted to confirm the overwhelming majority of nominees to come before us—including both Chief Justice Roberts and Justice Alito for the Supreme Court—and my standards for what I consider a qualified judge have not changed since my days in the Governor's office, when I appointed 81 judges, including the entire Nebraska Supreme Court and Court of Appeals. I wish I could say the same for the way the Senate considers judicial nominations, which to my disappointment has just become increasingly political and partisan. In the 1990s, Justice Ruth Bader Ginsburg was confirmed with only three dissenting votes, Justice Stephen Breyer with only nine dissenting votes. Yet recent nominations show that rising partisanship has affected both the tenor of the debate and the outcome of the vote. The Senate confirmed Chief Justice Roberts with 22 dissenting votes, and Justice Alito was confirmed with 42 dissenting votes.

In 2005, the nomination process became so polarized that I joined with 13 of my colleagues to form the Gang of 14 to prevent the shutdown of the Senate over partisan positioning with respect to appeals court nominees. I commend the Judiciary Committee for presiding over a cordial and fair hearing process for Judge Sotomayor, but as in all things, I wish the Senate could return to a more bipartisan approach to our constitutional responsibility to provide advice and consent.

As a Senator, I have taken very seriously my role to responsibly, thoughtfully, and thoroughly review a nominee's qualifications and record. After examining her record, meeting personally with her, and observing the Judiciary Committee hearings, I am convinced that Judge Sotomayor's approach on the Supreme Court will demonstrate the same fidelity to the law that has marked her distinguished career. In the years ahead, I believe she will make an important contribution on the Supreme Court. I wish her well in her new role.

I thank the Senate for this opportunity to offer my perspective on this historic nomination.

Mr. DORGAN. Mr. President, I will vote to confirm the nomination of Judge Sonia Sotomayor to be an Associate Justice of the Supreme Court. Let me explain why I am supporting her.

Judge Sotomayor's impressive life story is an American story of working hard and making the most of every opportunity. She grew up in a housing project in the South Bronx nurtured by a working mother who instilled in her the values of America. She understood that education was the key to unlocking the greatness that is available in our country. She won a scholarship to Princeton University, where she graduated with highest honors. But she did not stop there. She then attended one of America's finest law schools, where she also excelled and was a member of the prestigious Law Review.

In addition to her extraordinary academic achievements, Judge Sotomayor's many work experiences in the legal profession make her ideally suited to be a Supreme Court Justice. She has been a prosecutor, an attorney in private practice, a trial judge and an appellate court judge. She has been a Federal judge for more than 17 years. When she is confirmed, she will have had more judicial experience than any other Supreme Court Justice in more than 100 years, and she will be the only justice on this Supreme Court to have had experience as a trial judge. The knowledge she has gained over those many years will serve her, the Court, and our country well.

After reviewing her career on the bench and closely following her confirmation hearings, I have concluded that Judge Sotomayor is sincere in her commitment to apply the law, rather than to make the law. Her record shows that she cannot be fairly labeled ''left'' or ''right.'' For many years, she has looked at the facts and law of the many cases that have come before her and she has called them as she sees them without regard for anything else. Her record clearly demonstrates that she is a moderate, mainstream judge with great respect for the law, our Constitution, our country, and its institutions.

In my own meeting with Judge Sotomayor, I found her to be intelligent, measured, deliberate, and thoughtful. Judge Sotomayor assured me that she holds great respect for settled law. The more than 3,000 cases she has participated in support that conclusion as well.

This extensive record, and all of her experiences in life and law, likely explain the remarkable breadth and scope of people and organizations, many from opposite ends of the political and ideological spectrum, supporting her nomination. For example, the Chamber of Commerce and labor unions support her as well as numerous police organizations and defense lawyers. These are not natural allies, but they have seen what I have seen: a person of exceptional intelligence, wide-ranging experience, judicious temperament, and a commitment to even-handedly and fairly applying the law without fear or favor.

This is also demonstrated by her appointments to the bench. It is telling that Judge Sotomayor was first appointed to the Federal bench by President George H. W. Bush, who nominated her to the District Court for the

Southern District of New York. Judge Sotomayor was then promoted by President Clinton to the U.S. Court of Appeals for the Second Circuit. It is rare indeed to have a judge nominated by Presidents of both parties, and this is a testament to Judge Sotomayor's intellect, impartiality, and judicial conduct.

A Supreme Court appointment is for life and many Justices serve for decades, but their influence does not stop there. The cases they write or participate in have an effect on the law of the land for many decades even after they leave the Court. That is why I take my duty as a Senator to confirm a President's nomination for the Court so seriously, as I have done here.

One of the things that makes our country great and an inspiration to so many throughout the world is our commitment to ''Equal Justice Under Law,'' which is carved in marble over the entrance to the Supreme Court. Equal justice means that, under our law, who you are does not matter; who you know or are connected to does not matter; how much money you have or do not have does not matter; the color of your skin, your ethnicity, your gender or any other personal characteristic does not matter. The facts of a case and the applicable law are all that matter in our justice system. That is what the phrase ''Equal Justice Under Law'' means in our country and to our country.

I am confident that ''Equal Justice Under Law'' will inform and animate Judge Sotomayor's decisions throughout her years on the Supreme Court. If one looks with an open and fair mind at the full breadth of Judge Sotomayor's inspiring life, extraordinary career and superb qualifications, as I have, it is clear that she has earned a place on the Supreme Court and I am proud to be supporting her nomination. I have no doubt that our country will be well served by her.

Mr. BURRIS. Mr. President, more than half a century ago, a young couple from Puerto Rico settled down in the Bronx with dreams of a better life.

They didn't have much money, but they had a vision for the future.

A vision that their son and daughter might be able to get a good education, find a rewarding job, and live out the full promise of the American dream.

Today, their son Juan is a doctor and university professor near Syracuse, NY.

And their daughter Sonia is about to become the first Latina Justice of the U.S. Supreme Court.

This family's story could only take place in America.

It is a testament to the greatness of our democracy that the daughter of a relatively poor family can grow up to attend the finest universities in the world, and even rise to the highest judicial body in the land.

But it is not only her remarkably American story that will make Judge Sonia Sotomayor an excellent addition to the Court.

Her legal background marks her as the single most qualified Supreme Court nominee in the last 60 years.

After graduating from Princeton University and Yale Law School, she served as an assistant district attorney and then had a successful legal practice of her own.

In 1991, President George H.W. Bush appointed Ms. Sotomayor as the first Hispanic judge on the U.S. District Court in New York State.

Eight years later, President Clinton elevated her to the U.S. Court of Appeals, where she serves today.

Throughout her distinguished career, Judge Sotomayor has been a prudent and thoughtful jurist.

She has consistently exhibited the highest standards of fairness, equality, and integrity.

She is a brilliant legal mind and a moderate on the bench.

No one can argue with her professional qualifications for this post.

And I believe that her personal background will lend a fresh and dynamic perspective to the highest court in our land.

That is why I was proud to write to President Obama on May 15, urging her nomination.

I am pleased that he shares my high regard for Judge Sotomayor, and I thank him for giving us an eminently qualified nominee to confirm.

When we consider the makeup of the Supreme Court, we seek to build debate, not consensus.

Judge Sotomayor's uniquely American story will bring diversity to the Court's rulings.

And it is this diversity—of background, of perspective, of opinion—that will lend legitimacy and integrity to each decision.

As a former attorney general of Illinois, I have a deep understanding of these issues.

Every legal opinion should be bound by law and the weight of precedent.

The law must be grounded in sound and objective reasoning, and it is a powerful force in people's everyday lives.

That is why we need jurists like Sonia Sotomayor on the U.S. Supreme Court.

Because, when five voices come together to render a court decision, it becomes the law of the land.

There is no army, no threat of violence to back it up—just the quiet force of a written opinion.

That is the wonderful thing about this democracy.

And as a Supreme Court Justice, Sonia Sotomayor will never forget that.

She will be a strong addition to the highest court in our land, and I urge my colleagues to join me in giving her our utmost support.

Let us come together to make history by confirming the first Latina Supreme Court Justice in American history.

Let us renew our commitment to fairness, equality and diversity by confirming the most qualified nominee this Senate has seen in more than half a century.

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

Ms. CANTWELL. Mr. President, I rise today with great pride to express my support for the confirmation of Judge Sonia Sotomayor to be Associate Justice of the U.S. Supreme Court. Today, the Senate is on the verge of a historic decision in confirming Judge Sotomayor. She brings a wealth of experience to this lifetime appointment, with 17 years of service on the judicial bench—more than any member of the current court. She has served as a prosecutor, a trial judge, an appellate judge and has also worked as an attorney in the private sector.

In fact, with the retirement of Justice David Souter and the confirmation of Judge Sotomayor, she will become the only justice on the current Supreme Court with experience as a trial judge. This experience gives her a perspective that will be a much-needed addition to the Court.

If we confirm her today—and I am confident we will—Judge Sotomayor will become the nation's first Hispanic in history to sit on the highest court in the land, and only the third female Justice. Women, Latinos and Latinas—indeed all Americans—can join in celebrating these significant milestones. Judge Sotomayor embodies the progress our country has achieved, and yet I know she would agree with me that there is much more to be done.

According to the American Bar Association, women comprise 47 percent of all law students, as compared to 1947, when women made up 3 percent of law students. That is significant progress. I firmly believe that for Hispanics, Judge Sotomayor's appointment will mark the beginning of a new era of steady progress. According to the U.S. Department of Labor, today only about 4 percent of lawyers and 3 percent of judges are of Hispanic descent.

Judge Sotomayor will serve as an able Associate Justice. She will also serve as a tremendous role model for law students and other young people thinking about entering the legal profession and for those who aspire to become judges. Her confirmation and service on the U.S. Supreme Court will serve to accelerate progress into the future.

Like election of the president who appointed her, Judge Sotomayor's confirmation says to young people of all incomes and backgrounds: You can be anything you want to be.

All of us have been moved by Judge Sotomayor's personal story—of her upbringing in the Bronx by a working mother, and her rise from those humble beginnings to graduate in one of Princeton University's first classes to include women. From there she went on to Yale Law School, where she excelled, and then to a coveted post—one of the few held by women—in the Office of the Manhattan District Attorney.

With her record of solid experience, clearly Judge Sotomayor is ready to serve on the U.S. Supreme Court. In rating Judge Sotomayor, the American Bar Association conducted confidential interviews with a large number of judges and litigants who have worked with her or argued cases in her court. The ABA unanimously found Judge Sonia Sotomayor to be ''well qualified,'' the highest rating the association can give a judicial nominee.

Judge Sotomayor has received support from Democrats and Republicans, law enforcement groups and civil rights organizations. Among these groups are the Association of Prosecuting Attorneys, International Association of Chiefs of Police, National Fraternal Order of Police, Major Cities Chiefs Association, Women's Legal Defense and Education Fund, and the NAACP.

I agree with the Hispanic National Bar Association, which said that Judge Sotomayor ''embodies all the qualities required for service as a Justice and are confident that, when confirmed, she will render fair and impartial justice for all Americans.''

The National Association of Women Lawyers has noted that Judge Sotomayor's record, ''establishes her lack of gender, racial, ethnic or religious bias and her willingness to maintain and open mind, deciding cases on the record before her.''

Throughout her 17 years on the bench, Judge Sotomayor has shown a respect for established precedent and deference to the role of the elected branches of government. She made this point clear in the meeting I had with her shortly after President Obama nominated her for the post. The nonpartisan Congressional Research Service, CRS, stated that ''perhaps the most consistent characteristic of Judge Sotomayor's approach as an appellate judge has been an adherence to'' existing judicial precedent.

In her meeting with me and in testimony before the Judiciary Committee, Judge Sotomayor repeatedly acknowledged the right to privacy is enshrined in our Constitution. I believe she will preserve that right.

President Obama made a wise choice in selecting Judge Sotomayor to serve on our highest court. She has demonstrated her integrity and intellect throughout the thorough confirmation process. Having followed her confirmation hearings closely, I am confident that Judge Sotomayor not only has a deep understanding of the law and great respect for precedent. I am confident she will make a fine associate justice.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I rise to express my support for the nomination of Judge Sonia Sotomayor to be an Associate Justice of the U.S. Supreme Court.

Her career on the Federal bench, from the Southern District Court in New York to the Second Circuit Court of Appeals, and her personal journey, from a childhood in a housing project in the Bronx, to honors at Princeton University and Yale Law School, are now well known to everybody in the country.

But one of the things that received a small amount of attention in her confirmation hearing are the 5 years—right out of law school—she spent as a prosecutor in the office of legendary Manhattan district attorney Robert Morgenthau. It is a reflection of Sonia Sotomayor's grit, determination, and courage that she took on this challenge at that particular time to serve as an assistant district attorney during one of the most crime-laden periods of New York's history.

It is not often we get a chance to elevate to the Nation's highest Court someone who has followed police into shooting galleries, someone who has tracked down witnesses on streets awash in drug-related violence, and someone who has personally taken on witnesses and shredded some of them on cross-examination, and who has personally moved juries to tears in her closing arguments.

It is not often we get a chance to confirm a Supreme Court nominee who does not come from what Chairman PAT LEAHY likes to call the ''judicial monastery.'' But rather we have a chance to confirm someone who has the personal experience, perspective, and understanding of how the world works within our system of law as a practitioner and also having seen what it is like for those who try to enforce the law at the street level, our police, our law enforcement officials, and also in seeing what happens to victims and families drawn into the system unwillingly.

Judge Sotomayor certainly was not in a ''judicial monastery'' when she was undertaking the task of putting criminals behind bars in New York. I believe experience will prove of enormous value to somebody on the Supreme Court—someone who can go there understanding what it means to work 12-hour days as a prosecutor struggling to put together a case with reluctant witnesses, with police who have a difficult time coming to the courthouse, and, obviously, with experience in interpreting the fifth amendment, fourth amendment rights with respect to search and seizure and personal incrimination.

One of her cases, in particular, stands out, which is the 1983 so-called Tarzan Murderer case, involving a man who broke into apartments, sometimes by swinging from rooftops, robbing the residents, and then shooting them for no apparent reason. It was Judge Sotomayor's first homicide case and also her first homicide conviction. The defendant, Richard Maddicks, went to prison for 62½ years.

Judge Sotomayor said the case affected her as no other; that it underscored for her how crime destroys families and how prosecutors ''must be sensitive to the price that crime imposes on our society.'' I believe, having been a prosecutor, those are lessons I learned also firsthand and did not come automatically to the bar with a sensitivity to.

As much as I admire her work as a New York prosecutor, that experience alone, obviously, does not qualify her for confirmation to the Supreme Court. But I think it is an important experience, and it says a lot about her approach to the law and what she is willing to fight for.

There are, obviously, few things we do that are as important as confirming a Supreme Court Justice, and especially now with the Court so evenly divided. So this is a pivotal moment for the Court. The direction our country will take for the next 30 years is being determined now by this debate.

A vote for a Supreme Court nominee is a vote for each of our personal understandings of the Constitution, of the laws of the land, and of what we think is important with respect to the application of the rights and freedoms that define this country of ours. That is what this vote is. It is a vote to protect the basic rights and freedoms that are important to every American, and I would say, particularly, privacy, equality, and justice.

Consider, for example, the case of Lilly Ledbetter and Diana Levine as an example of how just one Supreme Court appointment can affect the lives and freedoms of countless Americans. In the Ledbetter case, five of the Court's nine Justices granted immunity to employers who discriminate against workers in matters of salary. It took a new Congress and a new President to strike down the Court's ruling in the continuing effort to ensure that all Americans—women and men—receive equal pay for equal work.

I have voted for Supreme Court nominees in the past, when it was clear to me they would protect those constitutional rights and freedoms. And I have voted against Supreme Court nominees, when it was clear to me they would not protect those rights and freedoms.

So we have to ask ourselves: What direction will this nominee take the Supreme Court? Will this nominee protect the civil rights and liberties enshrined in the Constitution and protected by law that we have fought for so long and hard? Will this nominee support Congress's power to enact critical legislation—sometimes defining those rights? Will the nominee be an effective check on the executive branch?

As a Senator, each of us has a right—not just a right, but an obligation, a duty—to protect the fundamental rights that are part of our Constitution. I think part of that means we have to preserve the incredible progress we have made with respect to civil rights and realizing those rights.

Having reviewed Judge Sotomayor's extensive record, and having read some

of her more important rulings, I have concluded that she will do exactly that, she will protect them. She is someone who understands what sets America apart from almost every other country is the right of any citizen—no matter what level they are at, in terms of their work, employment or pay, income, status—that no matter where they come from, no matter what is their lot in life, they have a right to have their day in court. Recently, in this country, over the last 15 or 20 years, we have seen those rights reduced, in some cases. We have seen the access of average citizens to the courts of America diminished.

I believe Judge Sotomayor understands the real world, and how important it is to preserve that relationship of an individual citizen to access to the courts.

It took a Supreme Court that understood the real world to see that the doctrine of ''separate but equal'' was anything but equal and, therefore, to break the Constitution out of the legal straightjacket it found itself in. I believe Judge Sotomayor meets the standard that was set by Justice Potter Stewart, who said:

> The mark of a good judge is a judge whose opinions you can read . . . and have no idea if the judge is a man or a woman, Republican or Democrat, Christian or Jew . . . You just know that he or she was a good judge.

For the last 17 years, she has applied the law to the facts in the cases she has considered, while always cognizant of the impact of her decisions before the court. I think she showed restraint, but she also showed fairness and impartiality in performing her duties under the Constitution.

I believe, though, it is clear her years as a prosecutor prepared her for the Federal bench in ways that few jurists get to experience. After that she spent nearly 6 years as a district court judge and almost 12 years on the appellate court demonstrating a very sophisticated grasp of legal doctrine and earning a reputation as a sharp and fearless jurist.

Courage is one of the qualities that Judge Sotomayor's colleagues and friends often attribute to her. One of those colleagues who ought to know these things was her one-time boss and, I might add, somebody whom, when I was a prosecutor, we modeled much of what we did in Massachusetts on his approach to the New York District Attorney's Office, and that is Robert Morgenthau. He said she was a ''fearless prosecutor'' and ''an able champion of the law.'' The police with whom she worked so closely felt the same way. That is why her nomination to the Supreme Court has been endorsed by nearly every major law enforcement organization in the country.

As a district court judge, she showed just how fearless she could be when, in 1995, she ended the Major League Baseball strike with an injunction against the league's powerful owners. All of her actions on the district court were important.

Of all her actions on the district court, that was one of my favorites. Some experts suggested that she had saved baseball and, in doing so, she had, as Claude Lewis of the Philadelphia Inquirer wrote, ''joined the ranks of Joe DiMaggio, Willie Mays, Jackie Robinson and Ted Williams.'' I am not sure I would go as far as Ted Williams, but Judge Sotomayor's actions did get the Red Sox back on the field at Fenway Park.

It is interesting to me that Judge Sotomayor would bring more Federal judicial experience to the Supreme Court than any Justice in the last 100 years. That is a fact her critics conveniently ignore.

In fact, she would bring more Federal judicial experience to the high court—more that 17 years all totaled—than any of the current associate justices.

Chief Justice Roberts came to the court with just 2 years on the Federal bench, Justice Alito 16 years, Justice Scalia 4 years, Justice Thomas 1 year, Justice Kennedy 13 years, Justice Ginsburg 13 years, Justice Souter 1 year, Justice Brennan and Justice Breyer zero years.

As we all know, Judge Sotomayor would be the first Latina to serve on the Supreme Court, just as she was the first Latina on the Second Circuit Court of Appeals. Much was made of this after her nomination by President Obama. And rightly so.

Judge Sotomayor is a role model of aspiration, of discipline, of commitment, of intellectual prowess and integrity. Her story is an American story, a classic American story, an inspiring American story.

How could anyone not be moved by the sight of Judge Sotomayor's mother, Celina, wiping away tears as the Judge paid loving tribute to her during her confirmation hearing? How could anyone not celebrate the journey that is the Judge's life story? An improbable journey, an extraordinary journey, a uniquely American journey.

We should not underestimate the importance of the diversity Judge Sotomayor will bring to the Supreme Court. People from different backgrounds bring different perspectives to bear on decisions, and that produces better decisions. That is especially important for the Supreme Court, which is, after all, the ultimate champion of the rule of law and protector of rights in America.

How important is diversity? The Supreme Court recently decided a case and found that school officials violated the fourth amendment rights of a young girl by conducting an intrusive strip search of her underclothes while looking for the equivalent of a pain killer. During oral arguments in that case, one of the male Justices compared the search to changing for gym clothes. Several other Justices laughed, but Justice Ruth Ginsburg, the lone female on the court, pointed out how ''humiliating'' such a search is to young girls.

I know that the Judge's critics claimed that she would rely on ''empathy'' rather than the law when deciding cases. But during her confirmation hearing, she made clear her commitment to the rule of law. ''Judges can't rely on what's in their heart,'' she testified. ''They don't determine the law The job of the judge is to apply the law. And it's not the heart that compels conclusions in cases. It's the law.''

She, in fact, has never used the word ''empathy'' in any of her decisions in more than 3,000 cases or the nearly 400 opinions she has written. Nor has she ever used it to describe her judicial philosophy in any speech or article. Her decisions have been based on established precedent and a respect for the limited role of a judge.

But every judge, even Supreme Court Justices, are shaped by the experiences of their lives.

One recent Supreme Court nominee testified before the Senate Judiciary Committee that he would bring to the court ''an understanding and the ability to stand in the shoes of other people across a broad spectrum.'' That was Justice Clarence Thomas.

Another acknowledged being influenced by the fact he came from a family of immigrants. ''When I get a case about discrimination, I have to think about people in my own family who suffered discrimination because of their ethnic background or because of religion or because of gender. And I do take that into account,'' he said. That was Justice Samuel Alito.

Another touted his status as a racial minority in expressing his commitment to a society without discrimination. ''I am a member of a racial minority myself, suffered, I expect, some minor discrimination in my years,'' he said. That was Justice Antonin Scalia.

I don't know why anyone would think gender and ethnicity do not inform one's worldview. How could it be otherwise? ''We're all creatures of our upbringing,'' Justice Sandra Day O'Connor once observed.

So, too, is Judge Sotomayor. But that does not mean she will not judge fairly. There is nothing in her long career to suggest otherwise. Above all, in fact, Judge Sotomayor will bring to the court a keen legal mind to the court and an extraordinary record of following, defending and upholding the rule of law.

It is no wonder that she earned a ''well qualified'' rating from the American Bar Association, the highest rating available in the ABA's evaluation of Federal judicial nominees' credentials, a process the organization of legal professionals has conducted for more than 50 years.

Our Nation's highest court will certainly benefit from Judge Sotomayor's scholarship, her years on the Federal bench and the uniquely American aspects of her life.

But as I noted earlier, the High Court's Justices will also benefit from Judge Sotomayor's years as a prosecutor, from having someone among

them who has been on the front lines in the fight against chaos and violence of the city, someone who has seen up close the awful toll crime exacts on its victims, someone who has stared down evil and who has sent the most evil to prison for life.

Judge Sotomayor's experience on the bench and her experiences in life have given her a keen sense of compassion and an unique understanding of everyday Americans—qualities that will serve her well as an Associate Justice of the U.S. Supreme Court, qualities that will serve our country well in the Court's deliberations.

It is clear she understands that our Nation is defined by the great struggle of individuals to earn and protect their rights.

I believe Judge Sotomayor will protect those rights, which did not come easily—access to the court house and the school house, civil rights, privacy rights, voting rights, antidiscrimination laws, all the result of bloodshed and loss of life, all written into law in a fight, all requiring constant vigilance to make sure they are enforced and maintained.

Do I overstate the importance of vigilance? Hardly. Just a few short months ago, the Court heard oral arguments in a case challenging the constitutionality of the reenacted Voting Rights Act. The act remained intact. But the fact that the Court heard the case is cause for concern that even a slight shift in the makeup of the Court could weaken or undo laws that protect the rights and well being of the American people.

It was the late Dr. Martin Luther King Jr. who said that ''the arc of the moral universe is long, but it bends toward justice.'' I believe Judge Sotomayor's nomination to the Supreme Court—indeed, her entire career, as a prosecutor, as a district judge, as an appeals court judge—is part of that arc bending toward justice.

Mr. President, I proudly support her nomination and urge all my colleagues to do the same. A vote to confirm Judge Sotomayor will be a high mark in the history of the Senate and in the history of this country.

Mr. President, on behalf of Senator LEAHY, I ask unanimous consent that a letter and statement of support for the nomination of Judge Sotomayor to be a Justice of the U.S. Supreme Court from the Lawyers' Committee for Civil Rights Under Law be printed in the RECORD.

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

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW,
Washington, DC, July 9, 2009.

Chairman PATRICK J. LEAHY,
Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

Ranking Member JEFF SESSIONS,
Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS LEAHY AND SESSIONS; As the Co-Chairs of the Lawyers' Committee for Civil Rights Under Law, we submit the attached Statement in Support of the nomination of Judge Sonia Sotomayor as an Associate Justice of the United States Supreme Court. This Statement is presented on behalf of our organization and with the particular support of the identified individual members of the Board of Directors and Trustees, who have joined to highlight their commitment to the Lawyers' Committee's position.

We also enclose an 81 page Report analyzing Judge Sotomayor's record pertaining to constitutional interpretation and civil rights, issues which are of paramount importance to the Lawyers' Committee.

We believe that the members of the Lawyers' Committee who have joined us in support of Judge Sotomayor have done so because the record demonstrates that Judge Sotomayor is well qualified to serve as an Associate Justice, with a record of judicial service characterized by both its longevity and its quality. Judge Sotomayor's record in the area of civil rights reveals a balanced and considered approach to following precedent and safeguarding the protections contained in our nation's Constitution and civil rights statutes. We also believe Judge Sotomayor brings needed diversity to the Court based on her gender, ethnicity and experience as a prosecutor and trial judge.

We urge the members of the Senate Judiciary Committee to recommend Judge Sonia M. Sotomayor for confirmation by the full Senate.

Sincerely,

NICHOLAS T. CHRISTAKOS,
Co-Chair.
JOHN S. KIERNAN,
Co-Chair.

STATEMENT SUPPORTING THE NOMINATION OF JUDGE SONIA SOTOMAYOR AS AN ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT

The Lawyers' Committee for Civil Rights Under Law, and the undersigned members of its Board of Directors and Trustees, write to support the nomination of Judge Sonia Sotomayor to the Supreme Court of the United States and to urge the Senate to confirm that nomination.

On May 26, 2009, President Barack Obama nominated Judge Sotomayor, who currently serves on the U.S. Court of Appeals for the Second Circuit, to replace retiring Justice David Souter. The last vacancy on the Court occurred in 2005, when Sandra Day O'Connor, the first woman to serve on the Supreme Court, retired. If confirmed, Judge Sotomayor would be the first Hispanic and the third female justice in the 219 year history of the Supreme Court.

Judge Sotomayor has impressive academic and professional credentials. She has had a wide-ranging legal career as a prosecutor, a corporate litigator, and both a district and appellate court judge. These combined experiences would add a perspective not currently available on the Supreme Court. In addition, having sat for six years on the district court and more than ten years on the court of appeals, Judge Sotomayor has more federal judicial experience at the time of her nomination than any Supreme Court nominee in the last hundred years.

This nomination is of special interest to us as directors and trustees of the Lawyers' Committee for Civil Rights Under Law because of our shared goal of promoting equal justice. In recent years, the Supreme Court has issued a number of decisions scaling back the critical protections against discrimination that are afforded by the Constitution and our nation's civil rights laws. This trend underscores the pressing need for a Justice who understands the persistent realities of discrimination and who interprets our civil rights laws as they were intended—to provide meaningful protections.

We believe that the best evidence of Judge Sotomayor's qualifications as a nominee is the judicial opinions she has written over her long career on the bench. Analysis of her opinions in civil rights cases and related areas prepared by the Lawyers' Committee forms the primary basis for our support for Judge Sotomayor's nomination. The Lawyers' Committee also examined her speeches and other writings to see whether they contained anything that should disqualify her from serving on the Supreme Court or that might indicate that she has a different judicial philosophy, particularly in the civil rights arena, from that reflected in her judicial opinions. The results of the Lawyers' Committee's analysis are contained in its Report on Judge Sotomayor's nomination.

Based on our review, we conclude that Judge Sotomayor's record in civil rights cases demonstrates careful judicial analysis, with full consideration of the relevant facts and law, accompanied by a sensitivity to civil rights issues that is consonant with constitutional and statutory provisions. We have found nothing in Judge Sotomayor's speeches or non-judicial writings, which appropriately refer to her unique life story and the perspective she has gained from her background, that should disqualify her from serving on the Supreme Court. Our review of her judicial decisions, as well as her speeches and other writings, leads us to conclude that Judge Sotomayor would bring to the Court an appropriate regard for the importance of enforcement of the civil rights protections of the Constitution and federal civil rights laws. We further conclude that her performance as a Court of Appeals judge clearly supports the proposition that she will honor stare decisis and adhere to the rule of law.

On the Second Circuit, Judge Sotomayor has heard over 3,000 appeals and has written over 250 signed panel opinions. Her opinions reveal a jurist who follows established precedent yet is willing to raise concerns about the practical impact of that precedent. Her opinions exhibit deference to the discretion of trial judges. Judge Sotomayor's jurisprudence in civil rights cases indicates that she carefully weighs the facts and the law, and her rulings fall within the mainstream of existing judicial decisions and legal scholarship. She interprets civil rights laws in a manner that provides meaningful protection from discrimination, while being mindful of the need to grant early relief to defendants when the facts and law justify a summary ruling.

Judge Sotomayor possesses both the exceptional competence necessary to serve on the Court and a profound respect for the importance of protecting the civil rights afforded by the Constitution and the nation's civil rights laws. Additionally, we believe that having a diverse Court is important for our nation. For these reasons, we support the nomination of Judge Sotomayor to the Supreme Court of the United States and urge the Senate to confirm her nomination.

By action of the Executive Committee, this statement has been submitted to members of the Board of Directors and the Board of Trustees of the Lawyers' Committee for Civil Rights Under Law, for the individual signature of subscribing Board members whose names are set forth below. The following individual members of the Boards of Directors and Trustees of the Lawyers' Committee hereby subscribe to the statement.

Atiba D. Adams, David R. Andrews, Barbara R. Arnwine, Jeffrey Barist, Daniel C. Barr, Lynne Bernabei, Victoria Bjorklund, John W. Borkowski, Patricia A. Brannan, Steven H. Brose;

Paulette M. Caldwell, John A. Camp, Douglass W. Cassel, Michael H. Chanin, Nicholas T. Christakos, Lisa E. Cleary, Frank M. Conner, III, Michael A. Cooper, Edward Correia, Peter J. Covington;

Marion Cowell, Nora Cregan, Michael Birney de Leeuw, Doneene K. Damon, Armand G. Derfner, John H. Doyle, III, Paul F. Eckstein, Robert Ehrenbard, Joseph D. Feaster, Jr., Fred N. Fishman;

Marc L. Fleischaker, John H. Fleming, Alexander D. Forger, Katherine Forrest, Eleanor M. Fox, Joseph W. Gelb, Peter B. Gelblum, Susan M. Glenn, Jon Greenblatt, Peter R. Haje, Gregory P. Hansel, Conrad K. Harper, Robert E. Harrington;

David L. Harris, Mark I. Harrison, Amos Hartston, John E. Hickey, Jerome E. Hyman, Blair M. Jacobs, Malachi B. Jones, Jr., Michael D. Jones, James P. Joseph, Heather Lamberg Kafele, Stephen Kastenberg, Laura Kaster;

Kim M. Keenan, Frederick W. Kanner, Frank Kennamer, Andrew W. Kentz, John S. Kiernan, Loren Kieve, Teresa J. Kimker, Adam T. Klein, Alan M. Klinger, Naho Kobayashi, Daniel F. Kolb, Edward Labaton, Gregory P. Landis;

Brian K. Landsberg, Michael L. Lehr, Charles T. Lester, Marjorie Press Lindblom, David M. Lipman, Andrew Liu, Jack W. Londen, Robert MacCrate, Cheryl W. Mason, Christopher Mason, Julia Tarver Mason, Gaye A. Massey;

Colleen McIntosh, John E. McKeever, Kenneth E. McNeil, Neil V. McKittrick, D. Stuart Meiklejohn, Charles R. Morgan, Robert S. Mucklestone, Robert A. Murphy, Aasia Mustakeem, Karen K. Narasaki, Frederick M. Nicholas, John E. Nolan, John Nonna;

Roswell B. Perkins, Bradley S. Phillips, Kit Pierson, Bettina B. Plevan, Robert H. Rawson, William L. Robinson, Guy Rounsaville, Michael L. Rugen, Lowell E. Sachnoff, Gail C. Saracco, John F. Savarese, Jennifer R. Scullion;

Richard T. Seymour, Valerie Shea, Jane C. Sherburne, Richard Silberberg, Jeffrey Simes, Robert Sims, Marsha E. Simms, John S. Skilton, Rodney E. Slater, Eleanor H. Smith, Edward Soto, John B. Strasberger;

Daniel P. Tokaji, Michael Traynor, Reginald M. Turner, Suzanne E. Turner, Michael W. Tyler, Kenneth Vittor, Joseph F. Wayland, Vaughn C. Williams, Thomas S. Williamson, Brenda Wright, Erika Thomas-Yuille.

Mr. KERRY. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, the Senate will soon vote to confirm Judge Sonia Sotomayor. In doing so, we will not only make history, but we will stand witness to a coming of age of America.

Our Founders devised a unique experiment in a new form of government built on tolerance, equal rights, justice, and a Constitution that protected us from the mighty sword of tyranny. It was a revolutionary notion that in this new Nation, no one—no one—would be bound by an accident of birth. No one would be limited by their economic or social circumstances. In America we have come to believe that all is possible.

Today, on the anniversary of the signing of the Voting Rights Act, at the other end of Pennsylvania Avenue is an African American sitting in the Oval Office. This is America.

Across the street in that magnificent symbol of equal justice under law, a woman—a Latina—will take a seat on the U.S. Supreme Court. This is America.

In this Chamber, this Senator respectfully stands before you born in the same year as Judge Sotomayor and in similar circumstances—raised in a tenement in an old neighborhood in New Jersey, the son of immigrants, the first in my family to go to college. I never dreamed I would stand on this floor on this day to rise in support of an eminently qualified Hispanic woman who grew up in a housing project in the Bronx, as I was growing up in that old tenement in Union City. Yes, this is America. It is the America our Founders intended it to be.

I said on this floor earlier in this debate that when Judge Sotomayor takes her seat on the U.S. Supreme Court, we will only need to look at the portrait of the Justices of the new Supreme Court to see how far we have come as a nation, to understand who we are as a people. It is true that we are often divided by deeply held individual beliefs that too often prevent us from reaching compromise on the complex issues and challenges facing this Nation. But in America, we are entitled to our individual beliefs. We are entitled to hold them firmly, passionately, with resolve, reason, and fairness. We are free to fight for them with every fiber of our being; to express them, to shout them from the rooftops if we like. Put simply, all of us see the world differently. All we can ask of ourselves, all any of us can ask, is that wisdom, intelligence, reason, and logic will always prevail in every decision we make.

I have said before on this floor, and I will say again: Who we are is not a measure of how we judge, it is merely one part of the many-faceted prism through which we see and analyze the facts. The real test is how we think and what we do. I know in my heart and in my mind that Judge Sotomayor will do what is right for America.

The worst her opponents have accused her of is an accident of geography that gave her the unique ability to see the world from the street view, from the cheap seats. I know that view well. I know it very well. It gives us a unique perspective on life. It allows us to focus a clear lens on the lives of those whose struggles are more profound than ours and whose problems run far deeper than our own. The view of the world from a tenement remains with me today, and it will remain with me all of my life, just as the view from that housing project in the Bronx will remain with Judge Sotomayor. It is a part of who she is. But let's be clear. It is not what she will do or how she will judge. It is the long view of America—a wide, inclusive view—often profoundly moving, sometimes heartbreaking, and it gives her an edge where she may see what others cannot, and I truly believe that is a gift that will benefit the Nation as a whole.

So I call on my colleagues to step back, take the long view, think of what our Founders hoped for this Nation, and let's vote. History awaits and so does an anxious Hispanic community in this country.

I have made my decision, and I will proudly stand in the well of this Chamber to cast my vote to confirm Judge Sotomayor as the next Justice of the U.S. Supreme Court. When she places her hand on the Bible and takes the oath of office, the new portrait of the Justices of the Supreme Court will clearly reflect who we are as a nation, what we stand for as a fair, just, and hopeful people.

Let that be the legacy of our generation, for this is America—the America our Founders intended it to be.

Mr. President, the Judiciary Committee has received letters of support for Judge Sotomayor's nomination from local, national, and international law enforcement, including the chiefs of police of major cities, among others. I ask unanimous consent that those letters, as well as letters from national Latino and Hispanic rights organizations, such as MANA, ASPIRA, and others be printed in the RECORD.

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

METROPOLITAN POLICE DEPARTMENT,
Nashville, TN, July 7, 2009.

Senator PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR LEAHY: After careful consideration of Judge Sonia Sotomayor's established record of respect and understanding for the work of law enforcement, I am today writing to express my strong support of her nomination as the next Associate Justice of the United States Supreme Court.

In my nearly 30 years experience as a police officer and police executive in three states, Louisiana, Washington, and Tennessee, it is clear to me that our citizens are ultimately best served and protected by members of the judiciary who are committed to respect for the rule of law. I am encouraged that Judge Sotomayor, through her work as a prosecutor in New York, and later as a trial judge, learned first hand how crime impacts a community and how members of law enforcement are in the trenches every day working to make a difference for safer neighborhoods. I believe that she understands the challenges police agencies face in dealing with criminals, and, if confirmed, will ensure that law enforcement is treated with respect and fairness in matters coming before the Supreme Court.

Senator Leahy, I understand that you will explore and consider a number of issues and factors before making your confirmation decision. I have every confidence that Judge Sotomayor's clear familiarity with how the courts impact law enforcement and the criminal justice system will be given full consideration. Thank you for your kind attention to this letter, and thank you for your support of the men and women in Tennessee, Vermont and our great nation's 48 other states who wear the badge of protection and service.

Sincerely,

RONAL W. SERPAS,
Chief of Police.

MAJOR CITIES CHIEFS ASSOCIATION,
June 7, 2009.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. JEFF SESSIONS,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MESSRS. LEAHY AND SESSIONS: On behalf of the Major Cities Chiefs, representing the 56 largest jurisdictions across the Nation, we are writing to support the nomination of Judge Sonia Sotomayor to the Supreme Court of the United States.

We applaud her distinguished career in public service, a record of achievement that began with her work as a prosecuting attorney. During those early years as an Assistant District Attorney, Sonia Sotomayor earned high marks from law enforcement. She has been praised by those who worked at her side on criminal cases as well as officials who have taken cases to her courtroom in later years.

Her record as a prosecutor and a judge both show a commitment to public safety and sensitivity to the needs of the community. She has made decisions that are both tough and compassionate. Her record shows respect for the laws and cases that enable the police to do their job.

American law enforcement has always looked to you for leadership and we again turn to you to move the nomination of Sonia Sotomayor quickly through the confirmation process.

Sincerely,

WILLIAM J. BRATTON,
Chief of Police,
President, Major Cities Chiefs.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,
Alexandria, VA, July 10, 2009.

Hon. PATRICK LEAHY,
Chair, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: On behalf of the International Association of Chiefs of Police (IACP), I am pleased to inform you of our support for the nomination of Judge Sonia Sotomayor to be the next Associate Justice on the United States Supreme Court.

As you know, the IACP is the world's oldest and largest association of law enforcement executives. With more than 20,000 members in over 100 countries the IACP has, throughout its 116 year history, been committed to advancing the law enforcement profession and promoting public safety.

It is for these reasons that the IACP is proud to endorse the nomination of Judge Sotomayor to the United States Supreme Court. Throughout her career, Judge Sotomayor has consistently demonstrated a firm understanding of, and a deep appreciation for, the challenges and complexities confronting our Nation's law enforcement officers. As a prosecutor, and at the District and Circuit Courts, Judge Sotomayor has clearly displayed her profound dedication to ensuring that our communities are safe and that the interests of justice are served.

The IACP believes that Judge Sotomayor's years of experience, her expertise and her unwavering dedication to the rule of law are evidence of her outstanding qualifications to serve as the next Associate Justice of the United States Supreme Court. The IACP urges the Judiciary Committee and the members of the United States Senate to confirm Judge Sotomayor's nomination in a timely fashion.

Thank you for your attention to this matter. Please let me know how the IACP may be of further assistance in this vitally important process.

Sincerely,

RUSSELL B. LAINE,
President.

MANA,
Washington, DC, June 9, 2009.

Hon. PATRICK J. LEAHY,
Chairman, Senate Judiciary Committee, Russell Senate Office Building, U.S. SENATE, WASHINGTON, DC.
Hon. JEFF SESSIONS,
Ranking Member, Senate Judiciary Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATORS LEAHY AND SESSIONS: MANA, A National Latina Organization, with headquarters in Washington, DC, twenty-six chapters nationwide, and six affiliates across the nation expresses wholehearted support for the appointment of the Honorable Sonia Sotomayor to serve as a Supreme Court Justice.

Growing up in the Bronx after her parents moved from Puerto Rico, Sotomayor's mother instilled the value of education early in her life. After graduating valedictorian at her Catholic high school, Sotomayor went on to Princeton, where she continued to excel. She attended Yale Law School and wrote for the Yale Law Journal.

Judge Sotomayor has had an exceptional and diverse career that will be an invaluable asset in a role as a Supreme Court Justice. She began her career as an assistant district attorney in the state of New York. Later, she worked in private practice as a corporate litigator, dealing with cases for both American and foreign clients. In 1992 she served as a federal judge for the U.S. District Court, having been nominated by President George H.W. Bush. In this position she was the youngest judge in the Southern District of New York and the first Hispanic federal judge in New York. During that time she supported claims to freedom of religious expression under the First Amendment. She continued in that position until her appointment as appellate judge by President William Jefferson Clinton in 1998.

The Honorable Sonia Sotomayor's perseverance, work ethic, integrity, and tested and proven ability to excel demonstrate her strength of character. Her commitment to nonpartisan, fair decision making, and upholding the law without bias makes Judge Sotomayor a clear choice for Supreme Court Justice. We are confident that Judge Sotomayor will dutifully represent the law as it is written, always serving in the best interests of the nation. A true example of living the American dream, she is an inspiration.

Moving forward, we urge that the Senate follow the timeline suggested by the White House, with an expeditious hearing by mid-July. As is our established procedure, we will also be submitting this legislative vote to the National Hispanic Leadership Agenda for consideration on the Annual Congressional Report Card, which tracks and publishes the voting records of Members of Congress on issues relevant to the Hispanic community. In the best interest of our nation, we ask you to confirm the Honorable Sonia Sotomayor based on her credentials, experience, and desire to honorably serve our great nation.

Sincerely,

ALMA MORALES RIOJAS,
President & CEO.

MANA DE ALBUQUERQUE,
Albuquerque, NM, June 2, 2009.

Hon. PATRICK LEAHY,
Chairman, Semite Judiciary Committee, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY, On behalf of MANA de Albuquerque, its thirty-five members, and it's affiliation with MANA, A National Latina Organization that represents twenty-six Chapters, six Affiliates, and individual members nationwide, I would like to declare my support for the confirmation of Judge Sonia Sotomayor as Justice of the Supreme Court.

The Honorable Sonia Sotomayor has had an exceptional and diverse career that will be an invaluable asset in a role as a Supreme Court Justice. Judge Sotomayor's perseverance, work ethic. veracity, and tested and proven ability to excel demonstrate her strength of character. Her commitment to bipartisan, fair decision making, and upholding the law without bias makes Judge Sotomayor a clear choice for Supreme Court Justice.

Judge Sonia Sotomayor's nomination reflects an enormous achievement for the Latina community. She is a woman of astonishing achievement, keen intellect, and integrity. These characteristics will aid her in making just decisions in representing and reflecting the law of the United States of America.

As a member of your constituency, the Latino community, and MANA de Albuquerque, I ask you to support Judge Sonia Sotomayor's expeditious confirmation.

Sincerely,

LYDIA LOPEZ MAESTAS,
President.

WOMEN OF EL BARRIO,
El Barrio, NY, May 8, 2009.

Re United States Supreme Court nomination of Judge Sonia Sotomayor.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. LEAHY: Women of El Barrio (WOES) proudly and respectfully urge you to make Judge Sonia Sotomayor your first appointment to the Supreme Court of the United States of America. Our appeal is consistent with WOEB's mission to develop the leadership and promote the contributions of Puerto Rican grandmothers and young women from our community, through efforts that extend from preserving a block, to honoring the gifts of our precious Planet! Sonia Sotomayor, is a star whose light shows working class boys and girls that they can become men and women who achieve in order to serve.

As a Latina, Judge Sotomayor's appointment addresses two glaring deficiencies in the court's lack of diversity and will bring our court system closer to real equality of opportunity.

In their appeal New York Senators Schumer and Gillibrand recognize that ''Latinos are a large and growing segment of our society that have gone grossly underrepresented in our legal system. Indeed, while Latinos comprise around 15 percent of the population, only about 7 percent of federal judges are Latino. Moreover, not a single Latino has served on the United States Supreme Court in the history of our country.''

While more than half the U.S. population is female, nearly one-third of all U.S. lawyers are women. Approximately 30 percent of the judges serving on the lower federal courts are women. It is truly shameful that the retirement of Justice Sandra Day O'Conner should have resulted in the reduction of the paltry number of women from

two to one. Most recently the lone remaining female, Justice Ruth Bader Ginsburg, has battled serious health problems.

In Judge Sotomayor you have a nominee of unquestioned legal prowess and excellent academic credentials. She's a Princeton University graduate, summa cum laude; a Juris Doctor from Yale Law School, including Editor of the Yale Law Journal. As a practicing attorney, she was a litigator in an international law firm and served as Manhattan Assistant District Attorney under Robert Morgenthauy 17 years on the federal bench as trial judge in the Southern District of New York and her current position on the 2nd Circuit.

In its October 2008 issue of Esquire magazine found that ''In her rulings, Sotomayor has often shown suspicion of bloated government and corporate power. She's offered a reinterpretation of copyright law, ruled in favor of public access to private information, and in her most famous decision, sided with labor in the Major League Baseball strike of 1995. More than anything else, she is seen as a realist. With a likely 20 years ahead on the bench, she'll have plenty of time to impart her realist philosophy.''

Just as importantly, we, the people want a Supreme Court of men and women who uphold the Constitution of the United States and the laws flowing from it; a court that is balanced when it is called upon to scrutinize preemptive war, torture, black prisons, warrantless surveillance, erosion of the common wealth, and deemed the true arbiter of social, economic and electoral justice for all.

Sincerely,

SANDRA TALAVERA,
Chair.

THE ASPRIA ASSOCIATION, INC.,
Washington, DC, June 15, 2009.

Re vote to confirm Judge Sonia Sotomayer to the U.S. Supreme Court.

Hon. PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: ASPIRA, the largest national Latino organizations in the United States and the only national organization dedicated exclusively to the education of Latino youth, urges you, as a member of the Senate Judiciary Committee, to vote to confirm Judge Sonia Sotomayor after a thorough but swift confirmation process.

Judge Sotomayor's outstanding academic credentials, keen intellect, extensive judicial experience, and long history of fairness and adherence to the law, make her an exemplary candidate to serve on the Supreme Court. Raised by a single mother in public housing in the Bronx, Judge Sotomayor went on to graduate with honors from Princeton and Yale Law School, two of the most prestigious universities in the country. In her three-decade career, Judge Sotomayor has served as an Assistant District Attorney, a litigator in private practice, and served as U.S. District judge for six years before serving eleven years on the U.S. Court of Appeals for the 2nd District. She was appointed to the District Court by Republican President George H.W. Bush and to the appeals court by President Clinton. She has participated in over three thousand court decisions, and has written over 380 opinions. No other Supreme Court nominee in the last 100 years has had the experience she will bring to the court. Judge Sotomayor's compelling life experiences will allow her to bring a range of experiences and perspectives to the court's deliberations.

We sincerely hope that you will join the majority of senators, Republicans and Democrats to confirm this exemplary American to the Supreme Court.

Sincerely,

RONALD BLACKBURN MORENO,
President and CEO.

Mr. MENENDEZ. Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I am honored to be here today. In a few hours, we will have achieved something truly great as a nation. Our first African American President has nominated the first Hispanic Justice to the U.S. Supreme Court. Times are changing.

If there are two words that sum up this nomination, it is these: ''It's time.'' It is time that we confirm a nominee to the Supreme Court who will improve its diversity. It is time that we confirm a moderate nominee to the Supreme Court who will pull it back into the mainstream and away from the extreme. It is time we confirm a nominee whose life story, personal history, intelligence, and experience represent the best America has to offer.

Judge Sotomayor's story is a true American story, a true New York story, and a great story. When Sonia Sotomayor was growing up, the Nancy Drew stories inspired her sense of adventure, developed her sense of justice, and showed her that women could and should be outspoken and bold. Now, in 2009, there are many more role models for a young student from her alma mater, Cardinal Spellman, to choose from, with Judge Sotomayor foremost among them.

If one listened to the debate over the last 2 days, one could easily think that my colleagues on the other side of the aisle are not talking about the same person we are. Those who are voting for Judge Sotomayor's confirmation have focused, as they should, on her history and her record. Judge Sotomayor was a prosecutor and a commercial litigator. She was nominated to the district court bench by a Republican President. Her record shows she is a true moderate. She has agreed with her Republican colleagues 95 percent of the time. She has ruled for the government and against the immigrant petitioner in 83 percent of immigration cases. She has denied race claims in 83 percent of race cases. All of these numbers place her squarely in the middle of the judges on her circuit.

But my Republican colleagues have chosen instead to focus on the speeches she has given outside the courtroom. They have zeroed in on a few choice quotes we have heard over and over again about the ''wise Latina woman'' quote. Is this the same person who has sat on 3,000 cases in 17 years, who ruled against Hispanic and African American plaintiffs in a wide variety of cases, and who ruled in favor of a police officer who engaged in blatantly racist speech because the first amendment protected him? Should three words outweigh 3,000 cases? Only if you have something against her in the first place.

''Bias'' and ''activism'' are now code words for ''not hard right.'' My colleagues say they don't want activist judges. What they really mean is they don't want judges who disagree with them and who put rule of law ahead of moving America in ideological directions.

We must and will continue to fight for mainstream judges. We must and will continue to free our unelected branch of government from ideologues and result-oriented extremism.

With the nomination of Judge Sotomayor, we have an opportunity to restore faith in the notion that the Court should reflect the same mainstream ideals that are embraced by America.

Judge Sotomayor is clearly a moderate. She is highly qualified. She is extremely intelligent. She represents the American ideal that at the end of the day, race and ethnicity and class aren't supposed to predetermine anything; through hard work and a good education, a girl from a Bronx housing project can rise to the highest Court in the most democratic country in the world.

I am so proud to cast my vote for Judge Sonia Sotomayor. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I thank the Senator from New York for what are heartfelt words.

I was able to spend some time privately with the judge to get to know her from a first impression. Usually, in my 37 years of public life, I have been able to size up a person, and it has proven to be a fairly accurate measure of a person. My sense from that private meeting is that here we have a judge who will use a lot of common sense in making judicial decisions.

I think that is important. I think it is also important that a judge have deference in the rule of law to precedent that has already been established. I believe that to be the case with this judge.

Since it is the U.S. Supreme Court, the Supreme Court will also have the final determination on what a law does or does not say. In that case, I think we not only want a judge who is extremely sharp, intelligent, well schooled in the law, with a long history in the law, with common sense, but of moderate disposition.

I think that is what Judge Sotomayor brings to this position of the U.S. Supreme Court. I believe Judge Sotomayor will be a fair, impartial, and an outstanding Supreme Court Justice. I am very proud that I will be able to cast my vote for her in a few minutes.

I yield the floor.

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.

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

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

Mrs. BOXER. Mr. President, I want to begin my remarks by introducing into the RECORD a letter I wrote with Senator OLYMPIA SNOWE in May, after Justice Souter announced he would be retiring from the Supreme Court.

I ask unanimous consent that this letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, May 11, 2009.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The announced retirement of United States Supreme Court Justice David Souter—an outstanding jurist—has left you with the crucial task of nominating someone for a lifetime appointment to our nation's highest bench.

The most important thing is to nominate an exceptionally well-qualified, intelligent person to replace Justice Souter—and we are convinced that person should be a woman.

Women make up more than half of our population, but right now hold only one seat out of nine on the United States Supreme Court. This is out of balance. In order for the Court to be relevant, it needs to be diverse and better reflect America.

Mr. President, we look forward with great anticipation to your choice for the Supreme Court vacancy.

Sincerely,

BARBARA BOXER,
U.S. Senator.
OLYMPIA SNOWE,
U.S. Senator.

Mrs. BOXER. Mr. President, at that time, we wrote, in part:

The most important thing is to nominate an exceptionally well-qualified, intelligent person to replace Justice Souter—and we are convinced that person should be a woman.

That was the letter that was written by a Democrat and a Republican Senator who believe strongly that it does matter, when you only have one woman on a Court of nine, as we do right now—until we vote—it is just not enough.

President Obama has nominated an exceptionally well-qualified and intelligent woman. She has more experience on the Federal bench than any Supreme Court nominee in the last hundred years.

Judge Sotomayor received the highest rating from the American Bar Association, and she will be an outstanding addition to the high Court.

When she is confirmed, she will become only the third woman ever to don the robes of a Supreme Court Justice. She will make history as the Nation's first Hispanic Supreme Court Justice.

This is a proud moment for our entire Nation, and especially for the 13 million Latinos in California and the 45 million Latinos nationwide. She already is a role model for so many young women.

As Justice Sandra Day O'Connor said in a recent interview:

About half of all law graduates today are women, and we have a tremendous number of qualified women in the country who are serving as lawyers. So they ought to be represented on the Court.

In the weeks since she was nominated, Judge Sonia Sotomayor has proven that she has the right judgment and the right temperament to serve on the Nation's high Court. This is a proud moment for our Nation, a very proud moment.

She demonstrated, during a week of intense questioning before the Judiciary Committee, that she is tough, she is smart and, most importantly, she knows the law.

During those hearings, she made clear that she understands the role of a judge, which is to apply the law to the facts of each and every case. She said:

In the past month, many Senators have asked me about my judicial philosophy. It is simple: fidelity to the law. The task of a judge is not to make law. It is to apply the law.

Her 17-year record as a Federal judge demonstrates a respect for the law and for precedent.

Let me read some comments from Judge Sotomayor's many supporters. Robert Morgenthau, District Attorney for the County of New York, said:

Judge Sotomayor's career in the law spans three decades, and [she] worked in almost every level of our judicial system—prosecutor, private litigator, trial court judge, and appellate court judge. . . . She is an able champion of the law, and her depth of experience will be invaluable on our highest court.

Kim Askew, chair of the American Bar Association's Standing Committee on the Federal Judiciary, said:

[Judge Sotomayor] has a reputation for integrity and outstanding character. . . . Her judicial temperament meets the high standards for appointment to the court.

I have to say, having watched some of the very tough questioning of Judge Sotomayor—if I might say, questions that were asked and answered, asked and answered, and asked and answered—the judge showed she understood that the Senators had a right to be tough, had a right to ask her anything they wanted, and she stood her ground beautifully.

Second Circuit Chief Judge Dennis Jacobs said:

Sonia Sotomayor is a well-loved colleague on our court—everybody from every point of view knows that she is fair and decent in all her dealings. . . . The fact is, she is truly a superior human being.

We all bring different experiences to our work. The judge has had experiences growing up as a young Latina that have shaped her life, and she has a firsthand appreciation of the American dream.

She was raised in a South Bronx housing project. Her father, a factory worker, died when she was only 9 years of age. Her mother worked two jobs to support the family. From this humble background, she graduated summa cum laude from Princeton and became an editor of the Yale Law Review.

As a woman, Judge Sotomayor will bring a different perspective than her male counterparts on the high Court. As we have said, those of us who feel it is important to have women represented, whether it is in the Senate, the House, or in corporate boardrooms or on the Supreme Court, a different perspective is important. I will give you an example of why I believe this.

During oral arguments in a recent Supreme Court case involving a 13-year-old girl who was strip-searched, Justice Ruth Bader Ginsburg pointed out that her male colleagues didn't understand the humiliation a teenage girl would feel from being strip-searched. Justice Ginsburg said the obvious:

They have never been a 13-year-old girl. It's a very sensitive age for a girl. I didn't think that my colleagues, some of them, quite understood.

So Justice Ginsburg pointed out in that one case how important it is to have this type of diversity on the court. As the Nation's first Latina Supreme Court Justice, Judge Sotomayor will bring a unique set of experiences to her role; and the Court will be a richer place because of her perspective.

I commend our President for selecting such an outstanding, well-qualified nominee.

I congratulate Judge Sotomayor for the very dignified manner in which she carried herself throughout this long, grueling process.

As President Obama said when he nominated her:

When Sonia Sotomayor ascends those marble steps to assume her seat on the highest Court of the land, America will have taken another important step toward realizing the ideal that is etched above its entrance: Equal justice under the law.

I look forward to seeing her sworn in as our next Supreme Court Justice.

Mr. JOHANNS. Mr. President, Senators have an enormous responsibility when it comes to deciding whether to support or oppose a Supreme Court nominee.

We must examine whether the person nominated to the highest court in the land will uphold and defend the principles contained in the Constitution, refrain from judicial activism, respect the rule of law, deliver blind justice to each and every litigant before the Court, and render reasoned decisions that adhere to precedent.

This duty has been characterized by many of my colleagues as one of the most important and far reaching decisions a Senator will ever make. I couldn't agree more.

I entered into the nomination process of Judge Sonia Sotomayor, a woman with an impressive life story and resume, with an open mind and a steadfast resolve to evaluate the nominee's qualifications on an unbiased basis.

In fact, having gone through the confirmation process myself before being sworn in as Secretary of Agriculture, I believe that a necessary amount of deference should be given to the President's choices.

However, after carefully reviewing Judge Sotomayor's record and speeches as well as closely monitoring her hearing before the Judiciary Committee, I could not support her nomination.

There are several areas that concern me with regard to Judge Sotomayor.

First, I am concerned that she will not be a neutral umpire. You see, a judge has the duty to preside over a courtroom with no inclination to side with one team over the other.

A judge must be able to put aside his or her personal or political agenda before sitting down on that bench. That is because no matter who you are—Black or White, woman or man, rich or poor—every person in this country is entitled to receive equal justice under the law.

There is a reason that Lady Justice wears a blindfold.

By now, most people are aware of Judge Sotomayor's comments that a ''wise Latina woman'' would ''more often than not reach a better conclusion than a White male.'' However, I think it bears pointing out to those who claim the comment was made in isolation and taken out of context, that Judge Sotomayor has made a series of similar comments over the years.

For example:

> In short, I accept the proposition that a difference will be made by the presence of women on the bench and that my experiences will affect the facts that I choose to see as a judge.
>
> Our experiences as women and people of color affect our decisions. The aspiration to impartiality is just that—it's an aspiration.
>
> I willingly accept that we who judge must not deny the differences resulting from experience and heritage but attempt . . . continuously to judge when those opinions, sympathies, and prejudices are appropriate.
>
> By ignoring our differences as women or men of color we do a disservice both to the law and society.

Nowhere in the history of our judicial system have judges been told to ''go with their gut'' as implied in the judge's statement. Such a standard would erode the legitimacy of the judicial system and would put every litigant in jeopardy of receiving an unfair trial.

Rather, judges are expected to decide cases based on the rule of law, not on the basis of their feelings. Otherwise empathy towards one person would mean antipathy against another.

A concrete example of my concern that Judge Sotomayor would not be able to set aside her personal preferences and biases is the Ricci v DeStefano case. In this case, Judge Sotomayor and two of her colleagues dismissed in a summary one paragraph unpublished opinion the claims of 17 white firefighters and one Hispanic firefighter. They alleged reverse discrimination based on New Haven's decision to discard the result of a promotional exam because not enough minorities would be eligible for promotion. Nearly half of the judges on the Second Circuit criticized the ruling as a ''perfunctory disposition.''

However, on June 29, 2009, the Supreme Court announced it was overturning the Second Circuit's ruling in the Ricci case. And while the final outcome appeared to narrowly overturn the Circuit's decision by a vote of 5–4, a deeper analysis is needed. All nine Justices unanimously rejected the lower court's specific holding and legal standard.

It also bears mentioning Justice Alito's concurring opinion in the case:

> The dissent grants that petitioners' situation is ''unfortunate'' and that they ''understandably attract this Court's sympathy.'' But ''sympathy'' is not what petitioners have a right to demand. What they have a right to demand is evenhanded enforcement of the law—of Title VII's prohibition against discrimination based on race. And that is what, until today's decision, has been denied them.

Many of my colleagues questioned Judge Sotomayor about her decision in Ricci. Judge Sotomayor repeatedly indicated that she relied on precedent, but the Supreme Court disagreed, saying, there were ''few, if any, precedents in the Court of Appeals.''

Because the Supreme Court is the highest court in the land and there is no backstop, I cannot support Judge Sotomayor's nomination. She did not convince me, either through her past rulings or during her confirmation hearing, that she would carry out justice in an impartial manner. Impartiality is essential to our justice system.

Beyond my concern that Judge Sotomayor will not be able to set aside personal views and prejudices, is her overall record before the Supreme Court. The Supreme Court has substantively reviewed 10 of Judge Sotomayor's decisions. Of those cases, eight have been reversed or vacated, one was upheld on a different legal standard and sharply criticized for using a flawed legal theory, and the last one was upheld on a slim 5–4 margin. This is a record that directly questions the nominee's legal reasoning and the ability to sufficiently apply the rule of law. A 10-percent success rate does not exude the confidence and mastery of the law that I feel is necessary of a Supreme Court Justice.

The final point of concern that I would like to highlight is Judge Sotomayor's view of the Second Amendment. In Maloney v. Cuomo, Judge Sotomayor joined a panel opinion that decided in one paragraph that the Second Amendment did not apply to the states. Also, in United States v. Sanchez-Villar, she joined a summary panel opinion that, among other things, used a one-sentence footnote to conclude that ''the right to possess a gun is clearly not a fundamental right.''

Judge Sotomayor believes that states have the authority to infringe on Second Amendment rights. This is fundamentally at odds with the Constitution.

Although Judge Sotomayor attempted to disavow and reconcile her past comments during the hearing, her record speaks for itself. Even the Washington Post, which endorsed Judge Sotomayor, found her testimony ''less than candid'' and ''uncomfortably close to disingenuous.''

Ultimately, I came to the decision that too many uncertainties exist regarding whether Judge Sotomayor will uphold the rule of law equally for all people and adhere to the Constitution.

While I respect and appreciate her impressive life story and accomplishments, I cannot support her nomination to the highest Court.

Mrs. HUTCHISON. Mr. President, I rise today to speak about the nomination of Judge Sonia Sotomayor to the U.S. Supreme Court.

Judge Sotomayor has a compelling biography.

As the first daughter of a young Puerto Rican couple, she grew up in a public housing project in the South Bronx.

Her father, a factory worker, died when she was 9 years old.

Her mother, a nurse, then raised her and her younger brother, and instilled in them a belief in the power of education.

Judge Sotomayor excelled in school.

She graduated as valedictorian of her class at Blessed Sacrament and at Cardinal Spellman High School in New York.

She won a scholarship to Princeton University, where she continued to excel, graduating summa cum laude and Phi Beta Kappa.

She was a co-recipient of the M. Taylor Pyne Prize, the highest honor Princeton awards to an undergraduate.

At Yale Law School, Judge Sotomayor served as an editor of the Yale Law Journal and as managing editor of the Yale Studies in World Public Order.

Over a distinguished career that spans three decades, Judge Sotomayor has worked at almost every level of our judicial system.

Today, she serves on the U.S. Court of Appeals for the Second Circuit.

An appointee of President Clinton on the Second Circuit Court, she has participated in over 3,000 panel decisions, and authored roughly 400 published opinions.

When I met with Judge Sotomayor last month, I found her to be a very likeable woman.

She also displayed these traits during her Senate confirmation hearings.

If she is confirmed, she will be the first Hispanic Supreme Court Justice—an ascendency that will mark a historical moment for our country.

I have, throughout my career, been a strong supporter of Hispanic nominees for judicial appointments and confirmation.

I am proud of the fact that, of the 40 judges I have had a role in nominating for the district courts in Texas, and the Fifth Circuit Court of Appeals, 30 percent have been Hispanic.

Likewise, I was a strong supporter of Miguel Estrada, who, like Judge Sotomayor, had an incredibly compelling life story, but whose nomination for the U.S. Court of Appeals for the District Circuit was filibustered.

I believe the decision of whether to support a nominee for the Federal courts—and especially the highest court—must be grounded in qualification and judicial philosophy.

She certainly meets the academic and experience criteria for service on our country's highest court.

The criteria for judicial philosophy for my concurrence is to apply the law, not make the law.

A judge must interpret the Constitution, not amend it by judicial decree.

One of the most important and recently confirmed constitutional rights is the right to keep and bear arms.

The Founding Fathers knew what they were doing when they put the second amendment in the Bill of Rights. This wasn't an accident.

They knew from their experience in the Revolutionary War that a free people must have the right to possess and bear arms.

The second amendment clearly says: ''A well regulated Militia, being necessary to the security of a free State, the right of the People to keep and bear Arms, shall not be infringed.''

Although some people are confused by the word ''militia,'' it is clear that the Founders did not use the word ''militia'' to mean that gun rights could only be used in an organized army.

The Framers did not intend for this right to be a ''collective'' right.

If that had been their purpose, they would have been satisfied with article 1 section 8 of the Constitution that gives Congress the power ''to provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions.''

The Framers went further than that.

They wanted to ensure that gun ownership was recognized by posterity as an ''individual right.'' So they included it as part of the Bill of Rights, which is a compilation of protected individual liberties such as free speech, freedom of religion, and a fair trial.

The second amendment ensures that every American can secure his freedom, and defend his life and property, if necessary.

In that sense, the right to keep and bear arms could very well be one of our most important rights—because it is the right from which all of our other rights, freedom of speech, freedom of religion, et cetera are secured.

That's why, last year, I led a congressional effort to support the affirmation of the second amendment as an important individual right in the Supreme Court case of D.C. v. Heller, which overturned Washington, DC's unconstitutional ban on handguns.

In that case, Senator Tester and I, joined by 53 of our colleagues and 250 members of the U.S. House, filed a ''friend of the court'' brief in favor of Dick Heller, who simply wished to exercise his constitutional right to protect himself and his family.

That brief was proof that a majority in Congress believe that the second amendment is a constitutionally secured individual right.

It was the first time in history that a majority of the House and Senate sent this type of brief to the Supreme Court.

In the case of D.C. v. Heller, the Supreme Court affirmed the right to keep and bear arms as an individual right for the first time in almost seven decades.

Unfortunately, however, just a few months ago, even after the Supreme Court's verdict in D.C. v. Heller, Judge Sotomayor issued an opinion in another case, Maloney v. Cuomo refusing to acknowledge that the second amendment is a fundamental right, and therefore may not be binding on the States.

As a strong advocate of the second amendment, I cannot ignore this decision.

I am very troubled by Judge Sotomayor's opinion in Maloney v. Cuomo because it appears to disregard an instruction by the Supreme Court in Heller specifically regarding fundamental rights.

In Footnote 23 of the Heller decision, the Supreme Court stated: ''With respect to Cruikshank's continuing validity on incorporation, a question not presented by this case, we note that Cruikshank also said that the First Amendment did not apply against the States and did not engage in the sort of Fourteenth Amendment inquiry required by our later cases.''

These ''later cases'' to which the court is referring held most Bill of Rights guarantees to be incorporated through the due process clause of the 14th amendment against State violation.

This was a clear instruction to the circuits that in future second amendment cases they will need to confront the incorporation argument and do so following the Supreme Court's line of cases on incorporation.

I must take issue with Judge Sotomayor's per curiam opinion in Maloney because while her opinion references the Heller footnote, it only acknowledges the portion noting the continued validity of Supreme Court precedent indicating the second amendment is not binding on the States.

Her court failed to recognize the instruction to conduct the contemporary 14th amendment incorporation analysis the Heller footnote demands.

As such, the Sotomayor opinion reaches the conclusion that the cases from the 1890s are still applicable—and therefore, basically, the second amendment is not binding on the states.

When questioned by the Judiciary Committee about the Maloney case, Judge Sotomayor said she was following precedent.

However, she did not follow the instruction of the Supreme Court in Heller on this point.

In Maloney, the Second Circuit cites the Supreme Court cases of Heller and Presser v. Illinois, decided in 1886, and the Second Circuit opinion Bach v. Pataki, decided in 2005.

Judge Sotomayor determines that Presser and Bach instruct the court to maintain Presser 's conclusion that the second amendment is not applicable to the States.

But Heller's Footnote 23 asks the Court to ''engage in a Fourteenth Amendment inquiry.''

I specifically asked Judge Sotomayor when we met why she did not follow this instruction, articulated just last year by the Court?

I did not receive a satisfactory explanation to this very pivotal question, nor did I hear one in her testimony before the Judiciary Committee.

Heller is precedent, and in this precedent, the Supreme Court tells the circuits to perform a 14th amendment inquiry.

In April of this year, the Ninth Circuit considered the same second amendment incorporation question.

While also looking to Presser for guidance, the Ninth Circuit turned to its own circuit precedent, Fresno Rifle & Pistol Club, Inc. v. Van de Kamp, and—like the Second Circuit—it would have been inclined to conclude that the second amendment did not apply to the States.

However, the Ninth Circuit acknowledged that it had not yet engaged ''in the sort of Fourteenth Amendment inquiry required by [the Supreme Court's] later cases,'' and therefore undertook the due process incorporation analysis as envisioned by the Heller footnote.

At the conclusion of the analysis, the Ninth Circuit finds that the second amendment right to keep and bear arms is ''deeply rooted in this Nation's history and tradition'' and ''compels [us] to recognize that it is indeed fundamental'' and is therefore incorporated by the due process clause of the 14th amendment and applied against the states and local governments.

Let me repeat that. The Ninth Circuit's opinion holds that the second amendment protects an individual's liberty, and because that protection is enumerated and so fundamental, the due process clause guarantees it, and the second amendment is therefore binding on the States.

We cannot escape the fact that both courts, each bound by the same Heller precedent, reached opposite conclusions, with Judge Sotomayor's opinion failing to subject the second amendment to the incorporation analysis required by the Supreme Court, and failing to identify the second amendment as a fundamental right, binding against the States.

It is from this fact, this outcome, that I am unable to reconcile with my earnest desire to confirm the first Hispanic Justice to the Supreme Court.

With the circuit courts split on the question of whether the second amendment is an individual right protected against State infringement, the Supreme Court will undoubtedly have this issue before it in the upcoming term.

With the constitutional right to keep and bear arms hanging in the balance, I cannot in good conscience vote to confirm a nominee whose judicial record indicates an unwillingness to protect and defend such a fundamental, individual right.

For that reason, I must oppose the nomination of Judge Sotomayor to the Supreme Court of the United States.

I similarly opposed the confirmation of Attorney General Eric Holder earlier this year due to his stance on the second amendment embodying a collective right rather than an individual right.

One added point. I am troubled by a line in her February 25, 2005, speech at the Duke Law School, ''Court of Appeals is where policy is made.''

This is a troubling statement in the area of judicial philosophy.

As I have stated earlier, I believe policy is made by elected officials who must be accountable through elections, not by Federal judges with lifetime appointments.

Judge Sotomayor is without a doubt an intelligent, experienced, and capable nominee, and she will bring much needed diversity to the Court.

But, after careful examination, I cannot support her confirmation to the highest court in the land.

The PRESIDING OFFICER. Under the previous order, the time until 3 p.m. will be divided, with the following speakers controlling 15 minutes each in the following order: the Senator from Alabama, Mr. SESSIONS; the Senator from Vermont, Mr. LEAHY; the Republican leader; and the majority leader.

Mr. SESSIONS. Mr. President, when President Obama nominated Judge Sotomayor to the Supreme Court, I pledged that we would treat her with respect and that our questions would be tough but always fair. It is an important office. I believe we have lived up to that obligation.

Again, I thank Chairman LEAHY and the members of the Judiciary Committee for their efforts. I think it did help provide a basis for our full debate in the Senate. I thank Judge Sotomayor for her kind words regarding how the process has been conducted, and the way she conducted herself.

We have had a robust debate on the Senate floor over these past few days, and we have addressed many important questions and issues.

The debate over Judge Sotomayor's nomination began with President Obama's radical new vision for America's court system. According to the President, all nominees to the Federal bench would now have to meet an ''empathy standard.'' This standard requires judges to reach their most difficult and important decisions through the ''depth and breadth of [their] empathy'' and ''their broader vision of what America should be.'' This is a stunning ideology. It turns law into politics. The President of the United States is breaking with centuries of American legal tradition to enter a new era where a judge's personal feelings about a case are as important as the Constitution itself.

The President's empathy standard is much more than a rhetorical flourish. It is a dangerous judicial philosophy where judges base their rulings on their social, personal, and political views. It is an attempt to sell an old, discredited activist philosophy by marketing it under a new label. It is this activist philosophy, now under the guise of empathy, that has led judges to ban the Pledge of Allegiance because it contains the words ''under God,'' to interpret the Constitution on the basis of foreign laws, to create a new right for terrorists who attacked the United States while robbing American citizens of their own rights to engage in activities such as silent prayer.

That philosophy also helps explain why Judge Sotomayor's panel of Federal judges allowed the city of New Haven to strip 18 firefighters of their eligibility for promotion on the basis of their race. It explains why judges have interpreted the second amendment to permit cities and States to ban guns despite the Constitution's clear language: ''the right of the people to keep and bear arms . . . shall not be infringed.'' And it explains why judges have allowed government to seize private property for private commercial development despite the Constitution's guarantee that private property may not be taken except for ''public use.''

The empathy standard may sound nice, but in reality, it is cruel. It is, in truth, a bias standard. The power to rule on empathy is the power to rule on prejudice, and the power to deny the rights of some is the power to deny the rights of any or of all. A judge embraces empathy at the expense of objectivity and equality and fairness.

Eighteen firefighters in New Haven worked, studied, and sacrificed to pass the city's promotion exam. But when the results did not fit a certain racial quota, the city leaders unceremoniously scrapped the results. The firefighters put their faith in the system, and the system let them down. So they took their case to court. But Judge Sotomayor summarily dismissed their case in a one-paragraph order that did not even consider their civil rights claims. But the Judge Sotomayor who testified before the Committee did not effectively explain her ruling to deny these firefighters their day in court.

She also did her best to distance herself from the activist philosophy she has so long spoken of and championed. But it was an unconvincing effort. I believe she failed to offer a credible explanation for her critically important rulings that would eviscerate gun rights and property rights. She failed to offer a credible explanation of her policy role in an advocacy group that took extreme positions when pursuing racial quotas, advocating that the Constitution requires that the government fund abortions and opposing reinstatement of the death penalty. Her effort to rebrand her judicial approach stretched the limits of credulity. As one editorial page opined, her testimony was ''at times uncomfortably close to disingenuous.''

Nevertheless, I believe we have had a deeply valuable public discussion. By the end of the hearing, not only Republicans and not only Democrats but the nominee herself ended up rejecting the very empathy standard the President used when selecting her. This process reflected a broad public consensus that judges should be impartial, restrained, and faithfully tethered to the law and the Constitution.

I think it will now be harder to nominate activist judges. This is not a question of left versus right or Republican versus Democrat. This is a question of the true role of a judge versus the false role of a judge. It is a question of whether a judge follows the law as written or as they might wish it to be. It is a question of whether we live up to our great legal heritage or whether it is abandoned.

Empathy-based rulings, no matter how well-intentioned, do not help society but imperil the legal system that is so essential to our freedoms and so fundamental to our way of life. We need judges who uphold the rights of all, not just some, whether they are New Haven firefighters, law-abiding gun owners, or Americans looking for their fair day in court. We need judges who put the Constitution before politics and the right legal outcome before their desired personal political and social outcome. We need judges who understand that if they truly care about society and want it to be strong and healthy, then they must help ensure our legal system is fair, objective, and firmly rooted in the Constitution.

Our 30th President, Calvin Coolidge, said of the Constitution:

> No other document devised by the hand of man ever brought so much progress and happiness to humanity. The good it has wrought can never be measured.

I certainly believe he is correct. That document has given us blessings no people of any country have ever known, which is why real compassion is not found in the empathy standard but in following the Constitution.

Judge Sotomayor, however, has embraced the opposite view. For many years before her hearings, she has bluntly advocated a judicial philosophy where judges ground their decisions not in the objective rule of law but in the subjective realm of personal ''opinions, sympathies, and prejudices.''

A Supreme Court Justice wields enormous power—a power over every man, woman, and child in our country. It is the primary guardian of our magnificent legal system. Because I believe Judge Sotomayor's philosophy of law and her approach to judging fail to demonstrate the kind of firm, inflexible commitment to these ideals, I must withhold my consent.

Mr. President, I see my colleague, Senator LEAHY, is here. He has handled

many of these nominations over quite a few years. We did not agree on a lot of the things that came up in the hearings, but he committed to giving the opportunity to the minority party to have a full opportunity to ask questions and to raise issues and speak out. I thank the chairman. I think it did credit to the Senate.

I thank the chairman, and I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Alabama for his kind comments. As he knows, I made similar comments about him this morning in the Senate Judiciary Committee. I reiterate them here today.

We did decide, both Senator SESSIONS and I, at the beginning of this process that we would try to make sure everybody was heard. We may have different outcomes on how everybody would vote, but everybody was heard. That has been done. I compliment the leaders of the Senate for doing that.

We are about to conclude Senate consideration of this nominee. I thank those Senators who evaluated this nomination fairly. I thank especially those Republican Senators who have shown the independence to join the bipartisan confirmation of this historic nomination. I thank all Senators on both sides of the aisle who spent hours and hours and days and days in our hearings.

Some critics have attacked President Obama's nomination of Judge Sonia Sotomayor by contending he picked her for the Supreme Court to substitute empathy for the rule of law. These critics are wrong about the President; they are wrong about Sonia Sotomayor.

Let's leave out the rhetoric and go to the facts. When the President announced his choice of Judge Sotomayor 10 weeks ago, he focused on the qualities he sought in a nominee. He started with ''rigorous intellect'' and ''a mastery of the law.''

He then referred to recognition of the limits of the judicial role when he talked about ''an understanding that a judge's job is to interpret, not make, law; to approach decisions without any particular ideology or agenda, but rather a commitment to impartial justice; a respect for precedent, and a determination to faithfully apply the law to the facts at hand.'' That is what President Obama said.

Then he went on to mention experience. He said:

> Experience being tested by obstacles and barriers, by hardship and misfortune; experience insisting, persisting, and ultimately overcoming those barriers. It is experience that can give a person a common touch and a sense of compassion; an understanding of how the world works and how ordinary people live. And that is why it is a necessary ingredient in the kind of justice we need on the Supreme Court.

Then the President concluded by discussing how Judge Sotomayor has all these qualities. The President was looking not just for lawyerly ability, but for wisdom—for an understanding of how the law and justice work in the everyday lives of Americans.

In a subsequent radio and Internet address, the President reiterated the point when he said:

> As a Justice of the Supreme Court, she will bring not only the experience acquired over the course of a brilliant legal career, but the wisdom accumulated over the course of an extraordinary journey—a journey defined by hard work, fierce intelligence, and the enduring faith that, in America, all things are possible.

President Obama did not say that he viewed compassion or sympathy as a substitute for the rule of law. In fact, he has never said he would substitute empathy for the rule of law. That is a false choice. The opposition to this nomination is based on a false premise.

When she was first named, Judge Sotomayor said: ''I firmly believe in the rule of law as a foundation for all our basic rights.'' Judge Sotomayor reiterated time and time again during her confirmation hearing her fidelity to the rule of law. She said:

> Judges can't rely on what's in their heart. They don't determine the law. Congress makes the laws. The job of the judge is to apply the law. And so it's not the heart that compels conclusions in cases. It's the law. The judge applies the law to the facts before that judge.

Those who, after 4 days of hearing, would ignore her testimony, should at least take heed of her record as a judge. Judge Sotomayor has demonstrated her fairness and impartiality during her 17 years as a judge. She has followed the law. There is no record of her substituting her personal views for the law. The many independent studies that have closely examined Judge Sotomayor's record have concluded it is a record of applying the law, not bias.

What she has said, and what we should all acknowledge, is the value her background brings to her as a judge and would bring to her as a Justice, our first Latina Justice.

Judge Sotomayor is certainly not the first nominee to discuss how her background has shaped her character. Justice O'Connor has acknowledged, ''We are all creatures of our upbringing. We bring whatever we are as people to a job like the Supreme Court.'' Everybody knows that, just as all 100 of us bring who we are to the Senate. Many recent Justices have spoken of their life experiences as influential factors in how they approach the bench. Justice Alito and Justice Thomas, nominated by Republican Presidents, did so famously at their confirmation hearings, and then they were praised by the Republican side of the aisle for doing so. Indeed, when the first President Bush nominated Justice Thomas to the Supreme Court, he touted him as an ''intelligent person who has great empathy.''

Some of those choosing to oppose this historic nomination have tried to justify their opposition by falsely contending that President Obama is pitting empathy against the rule of law. Not so. Not so. This President and this nominee are committed to the rule of law. They recognize the role of life experience not as a substitute for the law or in conflict with its mandates, but as informing judgment.

What is really at play is not a new Obama ''empathy standard'' with respect to judicial selection, but a double standard being applied by those who supported the nominations of Justice Alito and Justice Thomas.

Judge Sotomayor's career and judicial record demonstrate that she has always followed the rule of law. The point is, we don't have to guess at what kind of a judge she has been. She has had more experience on the Federal court, both trial level and appellate level, than any nominee in decades. She will be the only member of the U.S. Supreme Court with experience as a trial judge. We don't have to guess. There are well over 3,000 cases, so we don't have to guess. Attempts at distorting that record by suggesting that her ethnicity or her heritage would be the driving force in her decisions as a Justice of the Supreme Court are demeaning to women and all communities of color.

I have spoken over the last several years about urging Presidents from both political parties to nominate someone from outside the ''judicial monastery.'' I believe that experience, perspective, an understanding of how the world works and people live, and the effect decisions will have on the lives of people are very important qualifications. By striving for a more diverse bench drawn from judges with a wider set of backgrounds and experiences we can better ensure there will be no prejudices and biases controlling our courts of justice. All nominees have talked about the value they will draw on the bench from their backgrounds. That diversity of experience and strength is not a weakness in achieving an impartial judiciary.

I have voted on every member of the current U.S. Supreme Court. I have participated in the hearings of all but one of them, and that one I voted on the nomination having watched the hearing. I have sat in on the hearings of Justices no longer there, either because of retirement or death. I have conducted hundreds of nomination hearings—everything from courts of appeals judges, Federal district court judges, and Department of Justice appointees. I have been ranking member on two Supreme Court nominations and conducted this one. I mention that to thank the Senator from Alabama for his cooperation during it.

After those hundreds of hearings, you get a sense of the person you are listening to. I met for hours with Judge Sotomayor, either in the hearing room or privately. You learn who a person is, you really do, in asking these kinds of questions. You have to bring your own experience and your own knowledge to

what you are hearing. There are only 101 people in this great Nation of 300 million people who get a say as to who is going to be one of the nine members of the U.S. Supreme Court. First and foremost, it is the President who makes the nomination, but then the 100 of us in the U.S. Senate who must follow our own conscience, our own experience, our own abilities in deciding whether we will advise and consent to that nomination. It is an awesome responsibility, and we should do it not because we are swayed by any special interest group of either the right or the left.

In fact, I have a rule—my office knows it very well—that in Supreme Court confirmations I will not meet with groups on either the right or the left about it. I will make up my mind through those hours and days and the transcripts of the hearing. I would urge all Senators to do that. I think it is unfortunate if any Senator of either party were to make up their mind on a Supreme Court nominee based on pressure from special interest groups from either the right or the left. That is a disfavor to those hundreds of millions of Americans who don't belong to pressure groups of either the right or the left. They expect us to stand up.

That is what we should do on Judge Sotomayor. This is an extraordinary nominee. I remember when President Obama called me a few hours before he nominated her. I was with our troops in Afghanistan, and he explained what he was going to do in a few hours. We talked about that and we talked about Afghanistan, but we talked especially about her. He said, you know, there are Web sites already developing opposed to her. And within hours, we had leaders calling her racist, bigoted, or being affiliated with a group akin to the Ku Klux Klan. Fortunately, Senators on neither side joined with that.

We are almost at a time for a vote. I would hope every Senator would search his or her conscience and ask whether they are voting for this nominee based on their oath of office, based on their conscience, or are they reflecting a special interest group.

When the Judiciary Committee began the confirmation hearings on this Supreme Court nomination, and when the Senate this week began its debate, I recounted an insight from Dr. Martin Luther King, Jr., which is often quoted by President Obama. ''Let us realize the arc of the moral universe is long, but it bends toward justice.''

It is distinctly American to continually refine our Union, moving us closer to our ideals. Our union is not yet perfected, but with this confirmation, we will be making progress.

Years from now, we will remember this time when we crossed paths with the quintessentially American journey of Sonia Sotomayor and when our Nation took another step forward through this historic confirmation process. I urge each Senator to honor our oath, our Constitution, and our national promise by voting his or her conscience on the nomination of Sonia Sotomayor to serve as a Justice of the U.S. Supreme Court. I will proudly vote for her.

Mr. President, I see the Republican leader is here, and I will reserve the remainder of my time.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, once again I wish to thank the chairman and the ranking member of the Judiciary Committee, Senator LEAHY and Senator SESSIONS, and their staffs, for conducting a dignified and respectful hearing. From the beginning of the process, I assured Judge Sotomayor that Republicans would treat her fairly. At the end of the process, I can say with pride that we kept that commitment.

This particular nominee comes before us with an impressive resume and a compelling life story. Yet the question we must ask ourselves today is whether we believe Judge Sotomayor will fulfill the requirements of the oath that is taken by all Federal judges to administer justice without respect to persons; that is, to administer justice evenhandedly.

President Obama asked himself a different question when he was looking for a nominee. The question he asked is whether that person has the ability to empathize with certain groups. And as I have said, empathy is a fine quality. But in the courtroom, it is only good if a judge has it for you. What if you are the other guy? When he walks out of the courthouse, he can say he received his day in court. He can say he received a hearing. But he can't say he received justice.

At her hearings Judge Sotomayor was quick and even eager to repudiate the so-called empathy standard. But her writings reflect strong sympathy for it. Indeed, they reflect a belief not just that impartiality is not possible, but that it is not even worth the effort.

Judge Sotomayor's record of complex constitutional cases concerns me even more. Because in Judge Sotomayor's court, groups that didn't make the cut of preferred groups often found they ended up on the short end of the empathy standard, and the consequences were real.

One group that didn't make the cut in Judge Sotomayor's court were those who needed the courts to enforce their first amendment rights to support candidates for political office free from government interference. She is free to express her personal opinions on this issue, as she did when she wrote that merely donating money to a candidate is akin to bribery.

But as a judge she was obligated to follow clear Supreme Court precedent. And when it came to this issue, she followed her political beliefs instead, voting not to correct her circuit's clear failure to follow the Supreme Court precedent in this area of the law.

Ultimately, the Supreme Court, in a 6-to-3 opinion authored by Justice Breyer, corrected this error by her circuit on the grounds that it had failed to follow ''well-established precedent.''

Another group that didn't make the cut were those who need the courts to protect them from unfair employment preferences. As a lawyer, she advocated for—and, in fact, helped plan—lawsuits that challenged civil service exams for public safety officers. And as a judge, she kicked out of court—with just six sentences of explanation and without any citation of precedent—the claims of a group of firefighters who had been unfairly denied promotions they had earned. This past June, the Supreme Court reversed her ruling, making her 0 for 3 this term, with all nine Justices finding that she had misapplied the law.

Gun owners didn't make the cut, and they haven't fared well before Judge Sotomayor either. She has twice ruled the second amendment isn't a fundamental right and thus doesn't protect Americans when States prevent them from bearing arms. And here too, she didn't even give the losing party's claims the dignity of a full treatment. In one case, she disposed of the party's second amendment claim in a one-sentence footnote. In the other, she did it with a single paragraph.

Property owners weren't on the list either, and they too haven't fared well in Judge Sotomayor's court. In an important fifth amendment case—the amendment that protects against the government taking private property—Judge Sotomayor broadened even further the government's power, a ruling which one property law expert called ''one of the worst property rights decisions in recent years.''

And her ruling in this case fit an all-too-familiar pattern: she kicked the aggrieved party's serious constitutional claims out of court in an unsigned, unpublished, summary order, with only a brief explanation as to why.

These important cases illustrate the real-world consequences of the empathy standard, in which judges choose to see certain facts but not others, and in which it's appropriate for judges to bring their personal or political views to bear in deciding cases. Lieutenant Ben Vargas, one of the firefighters who did not fare well under the empathy standard, may have put it best. Speaking of himself and the other plaintiffs in that case, he said,

> We did not ask for sympathy or empathy. We asked only for evenhanded enforcement of the law, and . . . we were denied that.

Lieutenant Vargas understands what most other Americans understand and what all of them expect when they walk into a courtroom: that in America, everyone should receive equal justice under the law. This is the most fundamental test for any judge, and all the more so for those who would sit on our Nation's highest court, where a judge's impulses and preferences are not subject to review. Because I am not convinced that Judge Sotomayor would

keep this commitment, I cannot support her nomination.

Mr. President, does our side have time left, I would ask?

The PRESIDING OFFICER. Only the leader has time.

Mr. MCCONNELL. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, on May 17, 1954, the Supreme Court of the United States handed down a ruling that would begin to reroute America toward a more unified Union. When the Justices unanimously directed, in Brown v. Board of Education, that our children's schools must no longer be racially segregated, their decision echoed far beyond the walls of a courtroom in Washington, DC, or a classroom in Topeka, KS. The decision paved the way for countless future turns that would make our Nation more just and its people more equal.

Not 6 weeks later after that opinion, Sonia Sotomayor was born in the south Bronx. In her lifetime, this Senate has sent to the Supreme Court the only two women and the only two Americans of color to ever sit on that bench.

In the 10 weeks since President Obama made history by nominating Judge Sotomayor, many have emphasized the importance of putting the first Hispanic on the Nation's highest Court. This is truly historic for our entire Nation but especially for the young Latinos in this country who will see in Judge Sotomayor concrete evidence of the heights to which they can legitimately aspire.

But it is no less significant that in a country where women represent half of our population, Judge Sotomayor will be the third woman, only the third woman to ever serve as a Justice and will be one of only two women serving on the Court today.

In many ways, Justices Sandra Day O'Connor and Ruth Bader Ginsburg have made this day possible for Judge Sotomayor. Because of the trail these women; that is, O'Connor and Ginsburg and others like them, have forged, Judge Sotomayor has been recognized throughout her career for her intelligence, talent, and accomplishments rather than being defined by her gender.

It was not easy. Justice O'Connor finished high school at age 16, and when she finished Stanford Law School, one of the finest law schools in the world, a year early—she did it in 2 years—she was third in her class, two behind Justice Rehnquist but no law firm in California would hire Justice O'Connor as an attorney because—because she was a woman. The most one firm would offer her was a position as a legal secretary.

When Justice Ginsburg arrived at Harvard Law School, she was greeted by a dean who asked why the nine women in her class—it was a class of about 700 people—why nine women in her class were occupying seats that could otherwise be taken by men.

Little did he know she would later join another group of nine legal experts whose membership was long restricted to men, the Supreme Court of the United States. Like Justice O'Connor, Justice Ginsburg did not receive a single offer from any of the 12 law firms with which she interviewed, even though she finished first in her law school class.

When she was recommended for a clerkship to the Supreme Court, at least two of the Justices refused to hire her. Why? She was a woman.

America is grateful that O'Connor and Ginsburg did not give up. We are fortunate that their voices and the real-world perspective they brought to the table were part of the debate during some of our Nation's landmark cases on gender equality.

In the Lilly Ledbetter 2007 case before the Supreme Court, Justice O'Connor's successor, Samuel Alito, wrote the majority opinion in a 5-to-4 ruling that made it virtually impossible for women and other victims of pay discrimination to fight back.

Justice Ginsburg, who herself has been a victim of pay discrimination because she was a woman, read her powerful dissent aloud from the bench. It is rarely done. But she stood and proudly voiced her dissent in that 5-to-4 opinion. She invited Congress to correct this injustice, and we did that. We changed the law. After we passed the Lilly Ledbetter Fair Pay Act this year, it was the first piece of legislation that President Barack Obama signed into law.

Similarly, when the Supreme Court heard the case of a 13-year-old honor student, a girl who had been strip-searched at school, Justice Ginsburg heard her colleagues minimize the humiliation the student had suffered. Justice Ginsburg noted that she was the only one on the Court who had ever been a 13-year-old girl and encouraged her colleagues to take into account the victim's perspective. The Court rightly ruled the search was unreasonable. That would not have happened but for Ruth Bader Ginsburg.

Judge Sotomayor's life experiences will not dictate her decisions any more than Justices O'Connor, Ginsburg, Scalia, or Alito have let their personal pasts prescribe their own rulings. But as the newest member of the Supreme Court, she will bring a perspective not only as a woman and a Hispanic, but also a former criminal prosecutor, commercial litigator, trial judge, and appellate judge. She will share the depth and breadth of that experience with her colleagues, just as they will be able to share their own unique views on any case with her—their own views.

Justice O'Connor has said that the first African-American Justice, Thurgood Marshall, opened for his colleagues a window into a different world and was able to relate to them experiences they could not know.

Justices O'Connor and Ginsburg have done the same. Soon so will Judge Sotomayor. A more diverse Supreme Court is a better Supreme Court.

Judge Sotomayor's journey to this day has not been without obstacles. But because of the struggles fought by those who came before her, she has been able to succeed. Today the Senate will make history by confirming the first Hispanic, the third woman, and the third person of color to the Supreme Court of the United States. But equally as important, we will also make history by confirming someone as qualified as Sonia Sotomayor.

Her experiences come not only from the legal world but also the real world. Her understanding of the law is grounded not only in theory but also in practice. Her record is beyond reproach, her respect for the limits of the judiciary is resolute, and her reverence for the law is unwavering.

Sonia Sotomayor is an American of tremendous credentials. Both her academic record and her career experience are second to none. She graduated summa cum laude from Princeton University and excelled at Yale; again, Stanford, Harvard, Yale, all in the top three law schools in the country. She excelled at Yale where she was a member of the law review, the prestigious Yale Law Review.

After she is confirmed, she will be the only Justice who has seen a trial from every single angle. She has seen a trial from prosecuting civil and criminal cases, she has presided over them as a trial judge, and handled them as an appellate court judge. That is precisely the kind of experience we need on the Supreme Court.

I have had concerns for quite some time that we have far too few judges on the Court who have had trial experience. As a trial lawyer—I have tried more than 100 cases in front of juries—that experience to someone sitting on that Court is important. And she will bring that. That is so important.

We have too many Supreme Court Justices who have never conducted a trial. Some of them have never been involved in a trial. They have looked at cases from the appellate purview. I wanted someone who has looked at a case from a trial court perspective.

As the distinguished ranking member of the Senate Judiciary Committee, Senator JEFF SESSIONS of Alabama, said shortly after her nomination, Judge Sotomayor's nomination: ''She's got the kind of background you would look for, almost an ideal mix of private practice, prosecution, trial judge, circuit judge.''

I could not agree more with my friend JEFF SESSIONS. Her experience as a trial judge will be invaluable to the Supreme Court. As a former trial lawyer, as I have indicated, a judge is more than just a political title to me.

It is someone who understands the law and sees every day how it affects people, real people.

When looking at Judge Sotomayor, I see someone who knows what happens in a courtroom, which is an arena unlike any other arena in the world. We tend to think of Supreme Court cases as major milestones that change the arc of our history and define our principles. And they do. But they often begin as ordinary, routine cases before a trial judge. It could be a traffic stop that winds up at the Supreme Court, it could be a protest in a park, it could be the placement of some monument in a park or some public place, it could be a dispute over money.

Linda Brown was a girl trying to go to public school close to her house in Topeka, Kansas, setting in motion the beginning of the end of segregation in Brown v. Board of Education. Linda Brown was that little girl who wanted to go to school close to her home. Judge Sotomayor understands people like Linda Brown. She has developed a 17-year record as a moderate judge who is squarely in the mainstream.

One of her colleagues on the Second Circuit Court of Appeals for our country has credited Sotomayor with such an insightful and convincing understanding of the law that she changed his mind many times. He said: ''I would read one of the memos she had written on a case and say, I think she's got it and I don't.''

This is one of the reasons that both Republican and Democratic Presidents have nominated her to the Federal bench. It is the reason she has been confirmed twice by this body with strong bipartisan support. It is the reason that liberals and conservatives alike in the Senate will vote today to confirm her.

This woman's brilliance was on display last month. Remember, she just broke her leg. But she stood 4 days of grueling testimony with some of the finest legal minds in our country, the Democrats and Republicans of that Judiciary Committee. She did a good job in a very difficult situation. She was asked tough questions and she gave honest answers. Judge Sotomayor, who has been credited with saving baseball in one of her opinions, hit it out of the park in her testimony and her presence before the Judiciary Committee. If there ever were a home run, she hit it.

I thank Chairman LEAHY, my dear friend, who has been so good to me for so many years. I think back with fondness of our time here together in the Senate. I thank Ranking Member SESSIONS, who has always been a gentleman to me. We have disagreed on many public issues, political issues, but never do we disagree on our friendship.

I appreciate Chairman LEAHY and Senator SESSIONS for running a thoughtful and thorough confirmation hearing. I appreciate the generous and genuine cooperation of my colleagues who support this nomination as well as the respect shown by those who dissent.

But I commend Barack Obama, the President of the United States, for selecting such an accomplished, qualified, and experienced nominee to replace Justice Souter. It is with some sadness that I stand here today and recognize that David Souter will no longer be on the Supreme Court. I can say about no other Member of the Supreme Court what I can say about David Souter. David Souter was my friend. We did things socially. We had meals together. What a wonderful human being. I will miss him. He has always been a powerful defender of constitutional rights, whether it is the State of New Hampshire's constitutional rights or our country's constitutional rights. All Americans thank this good man for his decades of service to our Nation, and he has more to give. I am confident, though, that Judge Sotomayor will soon build upon her impressive record which is already very impressive when she is across the street at the Supreme Court.

I am certain she will leave the writing of the law to those of us on this side of the street. That is our job, and she will impartially and faithfully fulfill her constitutional duty to apply only the laws that we pass here.

I am also convinced that, when she soon takes the same oath every Justice before her has taken, she will ''administer justice without respect to persons, and do equal right to the rich and to the poor.''

Sonia Sotomayor has risen remarkably from the trials of a modest upbringing in the South Bronx of New York to presiding over major trials on the Federal bench. All Americans, men and women of every color and background, can be confident that she will ensure equal justice under the law in our Nation's very highest Court.

That is why I am so proud to cast my vote in a few minutes for the confirmation of Sonia Sotomayor as an Associate Justice of the United States Supreme Court.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Sonia Sotomayor, of New York, to be an Associate Justice of the Supreme Court of the United States?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Visitors in the galleries are reminded that expressions of approval or disapproval are not permitted.

Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 68, nays 31, as follows:

[Rollcall Vote No. 262 Ex.]

YEAS—68

Akaka	Franken	Mikulski
Alexander	Gillibrand	Murray
Baucus	Graham	Nelson (NE)
Bayh	Gregg	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Bond	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown	Kerry	Schumer
Burris	Klobuchar	Shaheen
Byrd	Kohl	Snowe
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Collins	Lieberman	Udall (NM)
Conrad	Lincoln	Voinovich
Dodd	Lugar	Warner
Dorgan	Martinez	Webb
Durbin	McCaskill	Whitehouse
Feingold	Menendez	Wyden
Feinstein	Merkley	

NAYS—31

Barrasso	DeMint	McConnell
Bennett	Ensign	Murkowski
Brownback	Enzi	Risch
Bunning	Grassley	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Wicker
Cornyn	Kyl	
Crapo	McCain	

NOT VOTING—1

Kennedy

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

Mr. LEAHY. Mr. President, the Senate has concluded consideration of the nomination of Sonia Sotomayor and has confirmed her as a Justice on the U.S. Supreme Court. The consideration of a nomination for a lifetime appointment to the Supreme Court is one of our most consequential responsibilities. The consideration of the nomination of Sonia Sotomayor has been a credit to the Judiciary Committee and to the Senate.

We could not give this process the attention it deserves without the help of dedicated staff. For 2½ months, the staff of the Judiciary Committee has worked long hours dutifully to help Senators in their review. I wish to thank the following members of the majority staff in particular: Jeremy Paris, Erica Chabot, Kristine Lucius, Roscoe Jones, Shanna Singh Hughey, Maggie Whitney, Sarah Hackett, Michael Gerhardt, Elise Burditt, Noah Bookbinder, Stephen Kelly, Kelsey Kobelt, Matt Virkstis, Anya McMurray, Juan Valdivieso, Curtis

LeGeyt, Zulima Espinel, Tara Magner, Roslyne Turner, Erin O'Neill, Sarah Guerrieri, Brian Hockin, Joseph Thomas, Leila George-Wheeler, Laura Safdie, Kathleen Roberts, Aaron Guile, Matt Smith, Lydia Griggsby, Patrick Sheahan, Scott Wilson, Dave Stebbins, Sarah Hasazi, Kiera Flynn, Bree Bang-Jensen, Tom Wheeler, Eric Poalino, Brad Wilhelm, Lauren Rosser, Chuck Papirmeister, and Bruce Cohen. I also thank my staff for their hard work on this nomination, in particular, Ed Pagano, David Carle, Jennifer Price, and Kevin McDonald.

I commend and thank the hard-working staffs of the other Democratic members of the Judiciary Committee for their tremendous contributions to this effort. I also want to extend considerable thanks to the Democratic leadership and floor staff, in particular Serena Hoy, Mike Spahn, Stacy Rich, and Joi Chaney.

I also commend and thank Senator SESSIONS, the committee's ranking Republican, and his staff, in particular, Brian Benczkowski, Elisebeth Cook, Danielle Brucchieri, and Lauren Pastarnack, for their hard work and professionalism.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The majority leader.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MAKING SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2009 FOR THE CONSUMER ASSISTANCE TO RECYCLE AND SAVE PROGRAM

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 3435, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3435) making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry, Mr. President: What is the order of business right now?

The PRESIDING OFFICER. Certain amendments are in order to be offered to the bill, with a 30-minute time limit.

Mr. HARKIN. Thirty-minute time limit on?

The PRESIDING OFFICER. Each amendment.

AMENDMENT NO. 2300

Mr. HARKIN. Mr. President, I have an amendment. I believe it is at the desk. If not, I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2300.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To limit the provision of vouchers to individuals with adjusted gross incomes of less than $50,000 or joint filers with adjust gross incomes of less than $75,000)

At the appropriate place, insert the following:

SEC. _____. ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1302(c)(1) of the Supplemental Appropriations Act, 2009 (Public Law 111–32; 123 Stat. 1910; 49 U.S.C. 32901 note) is amended by adding at the end the following:

''(H) ELIGIBLE INDIVIDUALS.—A voucher may only be issued under the Program in connection with the purchase of a new fuel efficient automobile by an individual—

''(i) who filed a return of Federal income tax for a taxable year beginning in 2008, and, if married for the taxable year concerned (as determined under section 7703 of the Internal Revenue Code of 1986), filed a joint return;

''(ii) who is not an individual with respect to whom a deduction under section 151 of the Internal Revenue Code of 1986 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins; and

''(iii) whose adjusted gross income reported in the most recent return described in clause (i) was not more than $50,000 ($75,000 in the case of a joint tax return or a return filed by a head of household (as defined in section 2(b) of the Internal Revenue Code of 1986)).''.

(b) REGULATIONS.—Not later than 7 days after the date of the enactment of this Act and notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary of Transportation shall promulgate final regulations that require—

(1) each purchaser or leaser of a new fuel efficient automobile under the Consumer Assistance to Recycle and Save Program established under section 1302(a) of such Act (Public Law 111–32; 123 Stat. 1909; 49 U.S.C. 32901 note) to affirm on a standard form, determined by the Secretary, that such purchaser or leaser is an individual described by section 1302(c)(1)(H) of such Act, as added by subsection (a); and

(2) each dealer that receives a form described in paragraph (1) under such program to submit such form to the Secretary.

(c) FRAUD DETECTION.—Upon receipt under paragraph (2) of subsection (b) of a form described in paragraph (1) of such subsection, the Secretary shall submit such form to the Internal Revenue Service to determine whether the purchaser or leaser has violated section 641 of title 18, United States Code.

Mr. HARKIN. Mr. President, the Car Allowance Rebate Program, or the cash for clunkers as everyone knows it, has been very popular with the American people, there is no doubt about it, the way it has been used. It has been a shot in the arm for the auto industry and our dealers at a very critical time. But I believe the program should be strengthened, and I think we should seize this supplemental time as an opportunity to do just that.

When this program was first authorized last year and we put this into effect, at that time I made the observation, which I will repeat here today, that, why would we want to give $4,500 to the President of the United States, who makes $400,000 a year, so he can buy a new car? Why would we want to give a Member of the Senate, who makes $172,000 a year, $4,500 to buy a new car? Quite frankly, we can afford to buy a new car.

But how about the rest of the American people out there, those who are making $30,000 a year, just above the minimum wage or $35,000 a year or $40,000 a year? How about them? What do they get out of this? Well, they can get $4,500 to buy a new car too. Someone who is making $35,000 a year probably does not have health insurance either. They probably have some old clunker made back in the 1990s or 1980s they are still driving that they are paying a lot for because it is a gas guzzler and they are paying a lot to get it repaired because they cannot afford to buy a new car. If you give them $4,500, many still cannot buy a new car.

So I argued at that time, when we did this, that we ought to put an income limit on it. That way, if you put an income limit on it, then the amount of money we are appropriating—that is what we are doing, by the way, spending taxpayers' money; we are putting this money out there—then that amount of money goes to a smaller subset of people, those who are low and moderate income. If you do that, then you can afford to give them a little bit more money. So someone making $35,000, $30,000, $40,000 a year might be able to get not $4,500 but maybe $7,500, maybe $8,000. Someone in that income category, then, could go out and buy a new car because they could get a loan, say, if they are buying a $16,000 or $17,000 car, and that is what new cars are selling for, at least some of the more modest automobiles. Some of the more modest automobiles cost around $14,000, $16,000, $17,000. So if they got more money, that means they could get a loan for 50 percent of the price. They probably could not get a loan for 75 percent or 80 percent of the price because they simply do not have that much credit. But they could get a loan for maybe half of the price of a car because, obviously, when they drove it away, the value of the car would still be more than that.

So I argued at the time that is what we should do with this money, and that is what I do again with this amendment. This amendment just basically says it limits the income, restricting the participation to individuals with an adjusted gross income of less than $50,000 and families with an adjusted

gross income of less than $75,000. So if you have an adjusted gross income as a single person of less than $50,000, you can participate; if you are a family, with less than $75,000 in adjusted gross income, you can participate.

Again, what I don't have in this amendment is increasing the amount of money.

So that is the thrust of this amendment. I know the program has been very successful. The first $1 billion was rapidly exhausted. I assume the second $2 billion we are going to be voting on would do the same. To my way of thinking, let's get a couple of bangs for the buck. Let's not only stimulate our economy by getting a lot of those cars off the lot and giving a shot in the arm to the auto industry, but let's help some people who really need some help: lower income, moderate-income individuals, and families who, even if you give them $4,500, can't afford to buy that new car. So, to me, that is what we ought to do. We ought to ensure that we get the maximum economic stimulus for every dollar we spend.

If we are going to give a lot of money to people who make $150,000 or $200,000 a year, or whatever—there is no income limit on the bill now—I am not certain that is a lot of economic stimulus. I might like it. I could probably take my car—I forget what year my car is, early 2000—I could take it in and get a new car, and I would get $4,500. But is that fair? Is that fair to someone of my status who makes—let's face it, I make $172,000 a year. Is it fair that I should get $4,500 to go out and buy a new car? I just don't think that is fair. I don't think it is right. But I think it would be right for someone making less than $50,000 a year because they are the ones who need the help. They need some economic stimulus also.

The higher the income of the person, the more likely they are to buy a new car without the rebate and in many cases would do that. Maybe it would not happen this month. But it may very well happen in the months to come.

By only providing money to those who are less likely to buy a car without the government benefit, we have a more efficient use of government dollars.

For the modest income family with an old gas guzzler, they are paying more for gas, they are paying more for repairs because they can afford to repair the car but they can't afford to get a new car, so they are stuck. They really need the help. I always thought cash for clunkers was a great idea—I still do, if it was targeted—if it was targeted and you gave lower and moderate-income people enough money to go out and do this.

So I think the $1 billion before, and now the $2 billion—so $3 billion—I think could have been much better spent by targeting it to low-income people and giving them the economic stimulus they need, so they will be saving money because they will be spending less on gas and they will be saving money because they are spending less on car repairs.

People of modest means are the most likely to have a vehicle that is really old, that is really a gas guzzler. Again, in the absence of an incentive, they are going to stick with their old vehicle because they simply can't afford a new car. A $4,500 rebate obviously provides a powerful incentive. We have seen that. It works.

I don't have any demographics. I don't have any data on who purchased these cars in regard to their income levels because there is no income guidelines on this, we don't really know who walked into the showrooms and bought these cars. We do know about half the cars were foreign cars. We do know that. Almost half were U.S. big three company cars. We do know that. But we just don't know what the incomes were, the economic status of the individuals or families who came in and purchased this new car.

I will say that I have on a few occasions talked to individuals I know who are of modest income means to ask them if they were taking advantage of this, and in just a few instances that I have been able to tap into this—by no means is this any kind of a poll that would be accurate, but in just the few cases where I have asked, people have said: Well, you know, $4,500 is nice, but I don't have the rest of it. Quite frankly, my credit is not very good because I am up to here with credit cards, and I am not certain I can get the money together to buy that car. So, again, that is just a couple of instances. I wouldn't say that is generally true, but it gives me an indication there are a lot of people out there who would like to have a new car, who would like to have the wherewithal to do it but even with $4,500 would not be able to.

So, again, that is what my amendment is. It is very simple. It just says right now that $50,000 per person, $75,000 per family. So think about it.

Right now, an executive with a $1 million salary and a 10-year-old gas-guzzling second car—perhaps a Cadillac; that is their second car or their third car—they can walk right into the showroom and purchase a brand new Cadillac that gets an additional 8 miles per gallon. That executive making a million-dollar salary, we will give them a $4,500 gift from the Federal Government.

Is this what we want to do? I don't think so. I just don't think it is a wise use of the limited funding we have. It probably will stimulate the economy; sure. I have no doubt about that. But is it stimulating the economy for lower income people whom I think we also ought to be stimulating in terms of their economic situation too?

So, again, that is the essence of the amendment. I think the program works. It is good, but it should be appropriately targeted to Americans of modest incomes and modest means. They tend to drive older vehicles. They need those cars to get to work, to take their kids to afterschool activities, to get to the doctors, and if they live in rural areas such as Iowa and places like that, they depend on that car for their life. So I think it makes good sense to offer a car purchase rebate. I am not opposed to the program. I think it works. But I just think it ought to be better targeted.

Mr. KYL. Mr. President, before the Senator from Iowa leaves the floor, if the Senator from Iowa has no further speakers on his amendment or wishes to speak any further, I am prepared on our behalf to yield all the time on our side if he would like to yield the time on his side so we can move the process on, and if the Senator would like to ask for the yeas and nays right now before I seek to offer my amendment, I am happy to stand by for that.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am not sure who is controlling time, but I wish to speak on the bill and on the amendment at the same time.

Is there a time limit on the bill?

The PRESIDING OFFICER. There is a total of 30 minutes on the amendment, equally divided.

Mr. LEVIN. I am asking a parliamentary inquiry: Is there a time limit on the bill?

The PRESIDING OFFICER. No.

Mr. LEVIN. I thank the Presiding Officer. I wish to speak on the bill. I would ask, who is controlling time in opposition to the amendment? I wish to speak on the bill.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, it has been brought to my attention that there is a mistake in drafting part of this amendment. Quite frankly, it does read that a voucher may only be issued under the program to an individual ''who filed a return of Federal income tax for taxable year beginning in 2008.''

There are some low-income people who don't file income tax returns, so there is a little bit of a problem in the drafting. I still remain committed to somehow working this out. It now looks as though even some people who make just over the minimum wage would not be allowed to go in, and those are the people I am trying to get to more than anybody else, those who are making a very low income but probably don't file an income tax return because they are low income.

I believe there are ways of getting over this. But the way the amendment is drafted, it can only go to an individual who filed a Federal income tax

return. That raises some troubling questions. I am also told that, under the agreement we have now, I cannot offer another amendment. In other words, amendments are now limited. I have a problem, because it is not what I intended to do. It is a drafting error. I apologize for that. I will continue to try to work on it and see if I can do something at some point. I remain committed to having an income cap on this program.

With that, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, reserving the right to object, let me say that he raises a good point about his amendment. I don't think it would be a difficult matter to drop that provision, or modify that provision, so that it would not preclude someone who had not filed an income tax return from being eligible for this particular program.

If the Senator wishes to modify his amendment to that effect, there would be no objection on our side. However, there would be objection to simply dropping the amendment, because too many people on our side are in agreement with the concept, and this is pursuant to a unanimous consent agreement.

Again, if the Senator wishes to modify the amendment, there would be no objection to that, although we would want to see the language, obviously.

Mr. HARKIN. Mr. President, I ask unanimous consent to set aside my amendment and that we move on to other amendments. We will bring this amendment up later. I ask unanimous consent that the time we have be reserved and that we come back to this amendment after the others have been disposed of.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona is recognized.

AMENDMENT NO. 2301, AS MODIFIED

Mr. KYL. Mr. President, I call up my amendment No. 2301, which is at the desk, and I ask unanimous consent that Senators BENNETT, ROBERTS, and SNOWE be added as cosponsors, and I also ask that the amendment be modified with the changes at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment, as modified.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself, Mr. BENNETT, Mr. ROBERTS, and Ms. SNOWE, proposes an amendment numbered 2301, as modified.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. STATUS REPORT AND REIMBURSEMENT OF UNFUNDED OBLIGATIONS.

The Consumer Assistance to Recycle and Save Act of 2009 (title XIII of Public Law 111–32) is amended—

(1) in subsection (c)(1)(A), by striking ''November 1, 2009'' and inserting ''August 8, 2009'';

(2) in subsection (g)—

(A) by amending paragraph (1) to read as follows:

''(1) DATABASE.—The Secretary shall maintain, and update each business day, a database that contains—

''(A) the vehicle identification numbers of—

''(i) all new fuel efficient vehicles purchased or leased under the Program; and

''(ii) all eligible trade-in vehicles disposed of under the Program; and

''(B) the amount of money—

''(i) obligated by the Federal Government for payment of vouchers issued under the Program; and

''(ii) remaining to be obligated for such payments from the amount appropriated for such purpose.''; and

(B) by adding at the end the following:

''(3) SUPPLEMENTAL REPORT.—No amounts may be obligated for the Program beyond the amounts appropriated under subsection (j) until after the Secretary submits a report to the committees referred to in paragraph (2) that—

''(A) evaluates the fuel efficiency standards of—

''(i) the eligible trade-in vehicles traded in under the Program; and

''(ii) the new fuel efficient automobiles purchased under the Program; and

''(B) details the administration of the Program, including the method used by the Department of Transportation—

''(i) to track the amount obligated by the Federal Government for payment of vouchers issued under the Program; and

''(ii) to determine the amount of appropriated funds remaining to be obligated under the Program.''; and

(3) in subsection (j)—

(A) by striking ''There is hereby appropriated'' and inserting the following:

''(3) IN GENERAL.—There is appropriated''; and

(B) by adding at the end the following:

''(2) REIMBURSEMENT OF UNFUNDED TRANSACTIONS.—In addition to the amount appropriated under paragraph (1), there shall be made available for the Program, from amounts appropriated under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) for the Department of Transportation and not otherwise obligated, an amount equal to the amount by which the dollar value of all of the vouchers issued under the Program during the period described in subsection (c)(1)(A) exceeds $1,000,000,000.''.

Mr. KYL. Mr. President, when Congress rushed the so-called Cash for Clunkers Program to passage as part of the fiscal year 2009 supplemental appropriations bill, it had little time to consider how the program would work. Although the program is well-intentioned, many have criticized its efficiency and questioned the ability of the Department of Transportation to manage its application.

The program has only been running for a couple of weeks, but DOT is already saying the $1 billion appropriated for the program has likely been spent. But nobody really knows. Yet this bill would appropriate an additional $2 billion.

My view is that before we jump to spend another $2 billion of taxpayers' hard-earned money, we need to call a time out—clear all of the transactions that qualify, see how much it costs, and evaluate how much more, if any, we want to spend. If we appropriate more, we certainly should establish a tracking system to know how much the government is committed to pay each day so that we will know when to cut the program off before we again run out of money. In short, this crash program must be properly restructured now if it is to be continued.

There have been multiple complaints from dealers who have had trouble with the program. Some dealers haven't received their registration information, and some have had trouble accessing the system to submit transactions. This information is concerning because, if true, DOT presumably doesn't have an accurate count of how many transactions dealers have made compared to how much money is left in the Cash for Clunkers Program. In fact, it is my understanding that the National Automobile Dealers Association estimated that at least 200,000 deals have been completed but not yet successfully submitted to the Department of Transportation.

The confusion at DOT is evident. On Thursday, July 30, less than 1 week after DOT started to accept dealers' transactions, DOT told Congress that the program was suspended because the $1 billion had been exhausted. The next day, DOT said the program was not suspended and transactions could continue. On Sunday, August 2, Secretary LaHood was on C–SPAN's ''The Newsmakers'' and first stated that the entire $1 billion hadn't been spent. However, later in the interview, he said that the administration would only honor deals made through Tuesday, August 4, unless the Senate approves this bill. He then said, in the same interview, that DOT estimates there is only enough money to cover deals made through this week. The process is anything but accurate. Dealers should not have to bear the risk that deals they made in good faith won't be honored.

It is not only dealers who should be concerned about whether the government has accurate data needed to wind down the program before the funding runs out. Secretary LaHood recently said that the government will make ''a good-faith effort'' to reimburse all deals that are in the ''pipeline.'' But without appropriated money, he cannot make any commitment. Statements of the Secretary are not binding promises. Consumers are also entitled to certainty. That is why we need a time-out to assess where we are and redo the process to be fully transparent and accurate.

Specifically, my amendment would terminate the program as of August 7, 2009, at 11:59 p.m. to give a date certain to dealers and consumers to avoid any further confusion about whether all

dealer transactions will be honored. It would delay new funding for the Cash for Clunkers Program beyond the $1 billion already appropriated, except for such sums needed to meet all obligations through August 7 that may exceed $1 billion, which would be paid for by using unobligated stimulus funding designated for DOT. This addresses the concern that some dealers will be on the hook for deals that have not cleared before the program runs out of money. DOT currently has no mechanism in place to efficiently cut off transactions once the appropriated threshold is reached.

My amendment would require DOT to submit a detailed report to Congress, before any new appropriations are made, that evaluates the methodology it used to track the daily obligations incurred under the program versus reimbursements sent to the dealers. The reporting requirement would ensure that Congress can evaluate what changes have to be made to more efficiently disburse any future money allocated to the program and, importantly, be able to track the disbursements and obligations to ensure the latter do not exceed the funding available. To this end, my amendment would add a requirement that if future appropriations are made, DOT must track daily the number of transactions made and money left to be obligated for reimbursement to the dealers. Again, this would ensure that the DOT is working with the most up-to-date information so that no consumer or dealer would enter into a transaction if funding is already exhausted.

Some have questioned whether the Cash for Clunkers Program is encouraging consumers to purchase or lease fuel-efficient vehicles. On June 11, two of my colleagues even submitted an opinion piece in the Wall Street Journal that indicated the Cash for Clunkers Program was ''bad policy'' and ''would create handouts for Hummers.'' The report would also evaluate the fuel efficiency standards of the automobiles traded in and the new automobiles leased or purchased. Obviously, should we want to modify the terms of the legislation to meet some of the concerns expressed by the colleagues I mentioned, that could be done at that time.

I am very familiar about what happens to program extensions that are rushed through without any oversight. In 2000, the Arizona State legislature passed a well-intentioned law, much like cash for clunkers, which provided a tax credit for purchasers to buy vehicles converted to run on propane or compressed natural gas. The program was originally estimated to cost $5 million. However, lawmakers continued the call for the expansion of the program based on consumer demand. Before long, that small $5 million pricetag ballooned up to a $600 million budget liability. It was stopped in time to avoid the State from bankrupting itself.

I am concerned that we are putting American taxpayers in a similar position. If the additional $2 billion is simply appropriated for this program, will DOT come back to Congress in September and argue that we must extend the program yet again? Maybe there would have been more money committed than the $2 billion, as may be the situation now. Aren't we required to apply some metrics, in other words, to evaluate the benefits against the cost to taxpayers? I don't have to remind everybody how Congress views temporary programs. Former President Reagan used to describe them by saying, ''There's nothing more permanent than a temporary government program.'' That could well be the case here if we don't step back and evaluate the program, and if we don't ensure that any future funding for such a program is done in a more efficient manner than this particular program is today.

As I said, auto dealers are hardly the only business that would be happy to receive government assistance. So evaluating it at this juncture is very important, lest we make the same mistake in the future.

We rushed cash for clunkers once. I suggest that we should not make the same mistake again. I urge my colleagues, therefore, to support my amendment when the appropriate time comes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Arizona controls 8 additional minutes, and there is 15 minutes in opposition.

Who yields time to the Senator?

Mr. KYL. I am happy to yield time to my colleague.

Mr. MCCAIN. Mr. President, I rise in support of the Kyl amendment. I remind my colleagues how this all happened. In June, the House ''air dropped'' $1 billion for a Cash for Clunkers Program into a conference report, which had nothing to do with clunkers, accompanying a $105 billion war supplemental spending bill and sent it over to the Senate. Despite the fact that my colleagues on the other side had advocated a new rule in the Honest Leadership and Open Government Act in 2007 to allow a procedural vote to strip air drops from conference bills, when such a vote was presented, it was voted to keep this clunker of a provision.

I hope one of my colleagues will propose a ''cash for golf clubs'' proposal. I have had many calls from people who have old golf clubs, and they would like to have cash for them. We know that it is an important national sport and it is an important part of our economy. I hope we will be taking up a ''cash for golf clubs'' provision pretty soon.

We are spending $3 billion to subsidize car purchases, some of them from automotive companies we own. We own Chrysler and General Motors. We own them, and we are going to give them money. So maybe it will come back to us.

The Wall Street Journal editorializes:

> This is crackpot economics. The subsidy won't add to net national wealth, since it merely transfers money to one taxpayer's pocket from somebody else's, and merely pays that taxpayer to destroy a perfectly serviceable asset in return for something he might have bought anyway.

Here we had it stuck into a supplemental appropriations bill that had nothing to do with automobiles. So now we find that people like free money. They like free money. Yes, we all like free money. So the program has gone out of control.

We have no idea, as Senator KYL has said, how much money is being spent, how much is being obligated. So rather than stop and see what the story is here, let's spend $2 billion more. At some point, this kind of thing has to stop. The national debt has climbed to $11.6 trillion. If we are under the impression—if anybody is under the impression—it is going to be taken out of the stimulus package, the chairman of the Appropriations Committee in the House 2 days ago said: Don't worry, we will add an additional $2 billion. Don't worry, it would not be taken out of the program that the money is there for; that money will be ''replenished.'' Do you know what replenishing means? It means $2 billion more of taxpayers' dollars. Everybody in Congress now is patting themselves on the back.

The program has also been a success, I might add, for foreign auto manufacturers. Four of the five top-selling cars in the program are made by foreign automakers, according to the Department of Transportation, and a success for Citibank that managed the voucher program, which has received $45 billion in Federal aid, and, yes, for the 184,000 Americans who have received up to $4,500 toward the purchase of a new car, except for the other 290-some million who will not take advantage of this program who will be paying the bill.

I urge adoption of the Kyl amendment. At least we should pause and see where we are.

The PRESIDING OFFICER (Mrs. SHAHEEN). Who yields time?

The Senator from New Hampshire.

Mr. GREGG. Madam President, if nobody is seeking time in opposition, I suggest on this amendment that all time be yielded back, if the Senator from Arizona is agreeable.

The PRESIDING OFFICER. Is there objection?

Mrs. MURRAY. Madam President, at this time, I object. I think at some point we will be able to yield back much of the time, but at this time, we need to talk with our Members to make sure Members have had a chance to say their piece.

Mr. KYL. Madam President, would it be in order to ask for the yeas and nays, and when the time is yielded back, we can set the vote?

The PRESIDING OFFICER. It is in order to ask for the yeas and nays.

Mr. KYL. I ask for the yeas and nays on the Kyl amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 2302

Mr. GREGG. Madam President, I ask further proceedings on this amendment be set aside and I be allowed to call up amendment No. 2302.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 2302.

Mr. GREGG. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To protect the generations of tomorrow from paying for new cars today)

At the appropriate place, insert the following:

SEC. _____. AMENDMENT TO THE 2010 BUDGET RESOLUTION.

S. Con. Res. 13 (111th Congress) is amended—

(1) in section 101—

(A) in paragraph (2), strike the amount for fiscal year 2010 and insert ''$2,890,499,000,000'';

(B) in paragraph (3)—

(i) strike the amount for fiscal year 2011 and insert ''$2,969,592,000,000''; and

(ii) strike the amount for fiscal year 2012 and insert ''$2,882,053,000,000''; and

(2) in section 401(b), by striking paragraph (2) and inserting the following:

''(2) for fiscal year 2010, $1,085,285,000,000 in new budget authority and $1,307,200,000,000 in outlays;''.

Mr. GREGG. Madam President, the senior Senator from Arizona alluded to the fact that basically this bill is unpaid for—$2 billion. There is a figleaf representation that the money in this bill is somehow being taken out of another account, and, therefore, it is offset—the account being the Renewable Energy Loan Guarantee Program under the stimulus package. But that is a total fraud—a total fraud.

This is the ultimate bait and switch because, as the senior Senator from Arizona pointed out, the chairman of the Appropriations Committee in the House, for whom I have a lot of respect and I think his forthrightness is refreshing, quite honestly, said on the floor of the House, when he was asked the question: What is going to happen to the fact that $2 billion has now been taken out of the Renewable Energy Loan Guarantee Program, what is going to happen to the loan guarantee program? Congressman OBEY said:

If the gentleman would yield, I share the gentleman's view that the Renewable Energy Loan Guarantee Program is of vital importance to creating a new, green economy. We have talked with the White House. We have talked with the Speaker and I want to assure you—

This is the chairman of the Appropriations Committee; when he assures you, you can be assured it is for sure—

and I want to assure you that all of us certainly have every intention of restoring these funds.

They are doubling down on the debt. It is bad enough—this should be called the ''debt for clunkers'' bill to begin with because basically what we are doing is creating debt for our children. We are suggesting, we are proposing, we are allowing $4,500, $1 billion, now $3 billion out the door to buy cars today, but the bill to pay those cars is going to come due on our children and our grandchildren as they have to pay the debt off, which this is going to go to increase.

This is nothing more than a program which is being funded entirely by debt and an increase in the Federal debt, as Congressman OBEY forthrightly stated when he said: We are going to find the $2 billion we took out of this account, and we are going to refill that $2 billion, which they will have to borrow to do. Everybody knows that.

I don't happen to support the program, but I at least would like to have some integrity in this process, and I would like to have the program paid for. If we are going to represent to the American people that this program is paid for, let's pay for it. So my amendment does that. That is all it does. It creates a mechanism to make sure we are not going to replenish an account we allegedly took the money out of in order to pay for this account.

The way I have set this up, it does not have to necessarily affect the loan guarantee program. In fact, it is not specifically the loan guarantee program at all what I have done. What I am suggesting we do is that next year, in order to make sure this program is paid for, we reduce what is known as the 302(a) allocation cap by $2 billion. That way we can be reasonably confident that before this money can be spent twice, there will have to be a vote, a 60-vote point of order brought against it on the floor of the Senate, and people will have to forthrightly say: Oh, we are actually borrowing from our children to do this. Or alternatively and refreshingly, we will not borrow from our children to do this; we will actually pay for it by reducing the 302(a) allocation cap.

It is an attempt to bring some integrity to the process, some honesty to the process, and actually pay for the program we allege we are paying for rather than use this gamesmanship, which is the ultimate bait and switch of saying we are going to pay for it today from funds we are taking out of the account tomorrow, and then we are going to refund that account tomorrow so we end up borrowing the money from our children. In this case, it would be twice because we had to borrow the money on the stimulus to begin with. That is all it does. It tries to put a little integrity into the process and make the pay-fors for this program honest and straightforward and reasonably real. Nothing is real around here when it comes to money and paying for things, but hopefully it would be more substantive and more substantial relative to the integrity of the process than under the proposal as it is presently drafted.

On the underlying program, though, I do have to make this point because it is an interesting point, not made by me, but I want to paraphrase it. It was made by the editors at the Web site Edmunds. Edmunds is an automobile Web site where you can get an evaluation of cars, sort of like consumer reports on cars. They will tell you how much your car is worth. They will tell you what the rating on your car is. They have a valuation of your car. They are totally independent. They have no dog in this fight.

They looked at this program and said: Something is wrong here. We have $4,500 per car being the amount that is reimbursed to people. You can buy about 220,000 cars, $4,500 a car. Their point was that over the time period this bill has been in place, in the typical course of business, 200,000 cars would have been turned in, old mileage, used cars that would have been turned in anyway. If there was no repossession, no ''debt for clunkers'' program, 200,000 cars would have been turned in to purchase new cars during this same timeframe. That is their estimate, and they are professionals. They look at it in a totally independent way. That was their estimate.

So the incremental increase in the number of cars that are being turned in under this program is about 20,000 to 22,000 cars. That does not work out to $4,500 a car; that is costing the American taxpayers about $45,000 a car to get those extra 22,000 cars off the road. Ridiculous.

The program has so many inconsistencies about it, but the ultimate inconsistency is we are borrowing from our kids to pay this. If this bill passes, we will have added $3 billion to the debt of our children. It is not appropriate. It is certainly not appropriate to spend it to buy a car today and pay for it 10, 15 years from now and have our children have to pay for it 10, 15 years from now by adding to the debt of this Nation.

My amendment attempts to address that issue by trying to enforce the pay-fors in this bill by reducing the 302(a) allocation next year.

I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I wish to speak and have my time allocated to the Kyl amendment.

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

Ms. STABENOW. Madam President, I wish to speak both to the Kyl amendment and to the Gregg amendment, but

let me indicate first to my friend from New Hampshire, we are not talking about sales that would have happened anyway. If anybody looks at the numbers of what has been happening in this country, we have had capacity to build 17 million vehicles in this country, 9 million of them sold in the last year, which is why we are seeing the automobile industry in the state that it is.

The reality is, this is a program that has been working. Consumers believe it is working, small businesspeople believe it is working, people who make steel and aluminum and advertisers and everyone who is involved in the larger economic impact of the auto industry believes it is working. That is why we need to pass this bill, as the House did.

As a general statement, I say everyone knows if any amendment is adopted, this program will fall. This program will be killed if any amendment is adopted. So we should start from that premise right now and then go to the merits. The reality is, if any amendment is adopted, the program will die. Those opposing the CARS Program are offering amendments hoping at least one of them will be adopted so the program will be killed.

With regard to the amendment of my friend from New Hampshire, first, let me say this. The bill is already deficit neutral. The $2 billion involved is completely offset with funds already appropriated under the Recovery Act. In a way, Senator GREGG's amendment is actually making us pay for this twice, which does not make any sense at all.

My colleagues on the other side of the aisle who are constantly bashing the recovery package for not delivering immediate results should be jumping for joy. There has been nothing more immediate, nothing more temporary, nothing more timely than the CARS Program.

The reality is that after only a week and a half into the program, we are back asking that the additional money we had originally asked for in the beginning be appropriated because this has worked.

I urge a strong ''no'' vote on the Gregg amendment.

As to the Kyl amendment, I also urge we oppose this amendment that would set an end date for this Saturday, effectively ending, again, one of the most important and successful stimulus we have had. It would be a hit to the economy, to the environment, and to consumer confidence just as it is starting to improve.

Many of the oversight goals Senator KYL is seeking to achieve, NTHSA already has the authority to do and they are already working on. NTHSA is already maintaining a database and is working to make it as timely and up to date as possible.

The original legislation also requires a report on the program that will cover many of the details that are in the Kyl amendment. The legislation also adds the requirement of a GAO study that will review the administration of the program. DOT has made several modifications to its online system to streamline the transactions and to speed up the processes. They have conducted field hearings, informal surveys; they have worked with dealers, and they have doubled the number of staff they have had. They have worked to refine and to deal with the immediate concerns because of how quickly the response came in.

So I would just urge that we vote no on the Kyl amendment, no on the Gregg amendment, and no on any other amendment that will kill the most effective stimulus we have passed this year.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, I rise to speak in opposition to this amendment No. 2302 that is being offered by my distinguished colleague and friend from New Hampshire.

Madam President, at the beginning of this Congress, just about every Member in this Chamber approached me and my colleague from Mississippi, Senator COCHRAN, and indicated that we had to fix the legislative and appropriations process.

Senator COCHRAN and I have taken that challenge very seriously, and we are on the path of doing just that. In the course of 7 months, we have enacted into law the Recovery Act and closed the books on the 110th Congress with the enactment of the omnibus and supplemental appropriations bills. In looking forward to fiscal year 2010, we have reported out of the Appropriations Committee 11 of 12 appropriations bills, and the Senate has passed four of them.

There are 2 months remaining before the start of the 2010 fiscal year, and to state it very bluntly, Madam President, this amendment will wreak havoc on both the work that has already been accomplished and the work that still needs to be accomplished. A vote for an amendment that cuts $2 billion from our 2010 budget allocation at this late date—and let me remind everyone in this Chamber that we are operating within an allocation that is $10 billion below the President's budget request—is a vote against getting our appropriations process back to regular order.

The Appropriations Committee has spent many months reviewing agency requests and drafting bills to reflect those needs within the limitations of the budget allocation set by the Budget Committee. To cut that budget allocation further after the fiscal year 2010 bills have been reported out of the committee would require significant cuts to the remaining bills that have yet to receive floor consideration. Madam President, that is fiscally irresponsible and simply unacceptable.

My good friend, the Senator from New Hampshire, has indicated this amendment is needed to pay for the CARS program now and not in the future. I would like to note that the authors of the underlying bill are already paying for this program by reallocating funding that was provided in the stimulus bill. This program is paid for at this moment.

Further, in general, the budget allocation for fiscal year 2010 discretionary spending reflected the fact that an economic recovery package for the next 2 years had just been enacted. This was one of the primary reasons for agreeing to an allocation that is $10 billion below the President's request. Consequently, taking discretionary funding from fiscal year 2010 to pay for a program that is being funded out of the Recovery Act is the equivalent of double accounting.

Madam President, the amendment is unnecessary for the purposes of paying for the CARS program, and it is harmful for the purposes of getting our appropriations process back to the regular order. So, therefore, I urge my colleagues to vote against the amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 2301

Mr. LEVIN. Madam President, how much time is remaining in opposition to the Kyl amendment?

The PRESIDING OFFICER. Eleven minutes.

Mr. LEVIN. I ask unanimous consent that I be allowed to use that time.

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

Mr. LEVIN. Madam President, we will soon vote on whether to extend the Cash for Clunkers Program. Rarely has this body passed legislation that has so clearly and quickly met our goals than when it approved the first installment of money for this program earlier this summer. The program offers rebates of $3,500 to $4,500 to consumers who trade in old inefficient vehicles for new cars and trucks with higher mileage. Thousands of consumers who hope to take advantage now wonder whether they will have the opportunity.

It is important to understand the context in which we originally approved this program. Amid the most severe downturn since the Great Depression, auto sales everywhere plummeted—in the United States and around the globe, foreign manufacturers and U.S.-based companies alike. In the U.S. market, month after month automakers have reported sales that have fallen 40 percent or more from a year ago. This unprecedented decline has harmed not only the hard-working autoworkers in my home State and other States, but auto suppliers, auto dealers, and small businesses in every community in this Nation. Because the auto industry represents such a large share of this Nation's overall economic activity, as long as this sales decline continues, it will weigh down our economy, frustrating attempts to lift us out of recession.

In establishing this program, we did not establish a course. We followed a

path that had already been laid out by other nations. In Germany, France, Japan, and other nations, governments recognized the danger to their own auto industries in this time of economic crisis and they acted. Germany's Government established its own version of cash for clunkers, and in June car sales were up 40 percent over the same period a year ago. Other nations saw similar impressive increases.

After just a few days, our efforts have borne impressive results. This week Ford reported its sales increased in July from a year ago, the first year-over-year increase reported this year by any automaker. Other carmakers, foreign and domestic, saw smaller declines than in previous months. The impact has been so striking that one private economist has raised his estimate for economic growth in the third quarter of this year by more than 50 percent based solely on the success of cash for clunkers.

This program accomplished what it was intended to accomplish. In just a few days, a quarter of a million Americans traded in their old car for a new model using the credits available from this program. That is a quarter of a million American families who have more fuel-efficient transportation, a quarter of a million transactions that will pump new money into local economies, and an incalculable boost to this Nation's struggling auto industry.

The program has made significant improvements in the fuel efficiency of our Nation's vehicle fleet. According to data from the National Highway Traffic Safety Administration, consumers using this program are buying new vehicles with an average 63 percent improvement in fuel economy over their trade-ins. More than four out of every five vehicles traded in are trucks; nearly three out of five new vehicles are cars. The average mileage improvement of 9.6 miles per gallon is more than double the program's minimum and far greater than expected.

In short, cash for clunkers has exceeded earlier projections in its ability to get older cars off the road and their damaging emissions out of our skies. Seldom have we had an opportunity to do more for our environment than we do today. Reinforcing and extending this program will get replaced hundreds of thousands more of these environmental clunkers with highly efficient new vehicles.

Some Members have proposed changes to the program by amendments. Some amendments are pending, or will be introduced, that are not related to this program. These may be well intended amendments, but it is vitally important to keep in mind the need for immediate action. The House of Representatives has sent us a bill that will keep the program running. Any amendments—any amendments—that the Senate approves will send the legislation back to the House of Representatives where action will be delayed until the House reconvenes in September. So any amendment that is adopted here is the death knell for this program. It would have to end immediately if an amendment is adopted because of the uncertainty over whether funds remain and to what extent. This program is designed to be a one-time stimulus, not a stop-and-start deal, which would make it more complex and confusing.

This situation is not new. We had a similar situation just a week or so ago. When the Senate passed a bill to restore funding to the highway trust fund, an amendment pending to that bill would have prevented the Federal Government from cutting $8.7 billion in transportation funding from several States, including my home State of Michigan. Normally, it would have been a simple decision to vote for that amendment to avoid those cuts. Michigan is in desperate need, and that amendment would seemingly protect hundreds of millions of dollars for my State. Yet I voted against the amendment. I did so because of the time-sensitive nature of the underlying bill. And many others in this body voted against an amendment for that same reason.

The highway trust fund was on the verge of running out of money, and the bill that we were voting on restored funding to keep it solvent through September. With the House of Representatives about to adjourn a week or so ago, any Senate amendment to that bill would have required that it be sent back to the House of Representatives, likely killing the bill. I, and many others here, decided not to risk letting the highway trust fund run out of funds. So what did we do? We voted for the bill, but we voted against an amendment, even though that amendment would have helped our States. What we did instead is we pledged to seek passage of that amendment at a later date to a different legislative vehicle. I opposed every amendment to that bill, as did a majority of our colleagues.

That is the situation we are in now. If we want this program to continue, we have but one choice. We have to vote for it, but we also must vote against all of the amendments that are pending to it, even though those amendments may be attractive standing on their own and in ordinary circumstances. It is going to be difficult for some to vote against these amendments. I understand that. But the issue is going to be, do you want the Cash for Clunkers Program to continue? If any amendment passes, it is the end of that program.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

AMENDMENT NO. 2304

Mr. COBURN. Madam President, I ask unanimous consent that the pending amendment be set aside and that Coburn amendment No. 2304 be called up.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2304.

Mr. COBURN. I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

(Purpose: To provide assistance to charities and families in need)

At the appropriate place, insert the following:

SECTION _____. ASSISTANCE TO CHARITIES AND FAMILIES IN NEED.

Section 1302 of the Supplemental Appropriations Act, 2009 (Public Law 111–32; 123 Stat. 1909; 49 U.S.C. 32901 note) is amended—

(1) in subsection (a)(2)(B), by inserting ''or for donation to a charity''; and

(2) in subsection (c)(2)—

(A) in subparagraph (A), strike ''For each'' and insert ''Except as provided in subparagraph (C), for each'';

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after paragraph (B) the following:

''(C) DONATION TO CHARITY.—For each eligible trade-in vehicle surrendered to a dealer under the Program, the dealer may dispose of such vehicle by donating such vehicle to—

''(i) an organization that—

''(I) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, including educational institutions, health care providers, and housing assistance providers described in such section; and

''(II) certifies to the Secretary that the donated vehicle will be used by the organization to further its exempt purpose or function, including to provide transportation of individuals for health care services, education, employment, general use, or other purpose relating to the provision of assistance to those in need, including sales to raise financial support for the organization; or

''(ii) a family that does not have sufficient income to afford, but can demonstrate a need for, an automobile.''.

Mr. COBURN. Madam President, it is interesting to note what we just heard from the Senator from Michigan about how we can't fix this program—admitting that there are several things wrong with it—because the House is out of town and we have to pass it. So we are going to do the wrong thing for the right reason.

I have not heard from a dealer in my State that is not for this program. There is no question it is stimulatory. There is no question, however, that the stimulation is one based on time of sales, not on true total stimulation to our economy. What we are doing is stimulating future sales to be bought at this time. But, more importantly, we have two untoward disadvantages that this program is causing which is actually hurting the poorest and the weakest and those of color in this country.

When we wrote this amendment, we went to the Finance Committee. We were told it was not going to score.

Then when we got to the Joint Economic Committee, they scored this amendment as costing $90 million, but what they did not take into consideration is that if these cars were actually given to charities or to people who did not have a car, it scored exactly the same. In essence, there is no net score with the bill.

The fact is, with this program—because we are destroying half a billion dollars worth of real assets so far in this program and we are going to destroy $1.2 to $1.3 billion worth of real assets, real cars that charities could really use to give to real people who do not have transportation—we are taking that away. In our tough economic times right now, charities' income is down about 30 percent across the board while the demands on the charitable organizations are up. We all recognize that charities use the contributions of automobiles to then turn around to sell and fund a lot of charities.

What this amendment does is allow the vehicles that are traded in to be donated to poor families or to charities. Why destroy a perfectly good car that somebody in a rural area who cannot get access to health care now because they don't have transportation—why destroy that mechanism of opportunity?

I understand there probably will not be the votes for this amendment. But to say we are going to take a perfectly good automobile that somebody less fortunate could utilize for years for transportation purposes, that will elevate them economically, and instead we are going to destroy it, we are going to destroy the opportunity for somebody less fortunate to have that automobile. This program is working for two groups of people: it is working for the auto industry and their dealers, and it is working for anybody who qualifies and uses the Cash for Clunkers Program. But it is not working for everybody else. This is a small minority of Americans who are going to benefit for a specific industry.

I heard the Senator from Arizona raise the question: Why not golf clubs? Why not dishwashers? Why not washing machines? Why not boats? Why not RVs? Why not other industries that also were on their backs, not having the same benefit?

I also would note that several organizations, a couple from which we received endorsements—the Military Order of the Purple Heart and Lutheran Charities throughout America endorse it.

I thought I would raise one other point; that is, this amendment is significantly environmentally friendly. A recent ABC News story on the clunkers quoted the following:

> Believe it or not, even some environmentalists are against the new law. They point out it will end the lives of perfectly serviceable vehicles with years of life left. One way to be green is to get a more carbon friendly car. Another way to be green is to recycle or buy a used car. It takes 113 billion Btus to build a Toyota Prius. You have to drive that car 46,000 miles before you are even on the carbon footprint.

If you take the same car and give that car to somebody in need, you enhance their economic condition and you do not create another 113 billion Btus of energy.

Hybrids get great mileage, we talked about that, but in terms of net-net, in terms of being green—we hear that all the time. If we want to do what is most efficient from an environmentally safe standpoint, this amendment does it. You still have the Cash for Clunkers Program, but what you do is turn around and use the cars by giving them to charitable organizations or families who need them. If we were to do that, especially if we are going to increase this program $2 billion additionally, you are going to save $1 billion worth of net assets that we can transfer to those less fortunate in this country. For that, the tax consequences will be $90 million, which is exactly the same tax consequences we would have had on these cars had we not had a cash for clunkers program.

It is crazy, in this country, to intentionally destroy perfectly good automobiles. It is nuts. It is not rational. Yet we have a program and we are already doing it. In Oklahoma we had a car that was traded in that had 10,000 miles on it. They destroyed the engine on the car under this program. Granted, it had poor gas mileage, but that was transportation to somebody who was poor, transportation to somebody who did not have transportation.

We have been debating health care around here for 6 months. The biggest limitation on access to health care in rural and poor communities is transportation, and we are going to take away an opportunity to give many of those people transportation. We are going to take it away. The schizophrenia of Washington continues to amaze me, and the lack of common sense that is associated with what we do.

I will make one final note. The reason this bill has problems, the reason the Transportation Department is having trouble with it is it never went through a committee, never had multiple hearings, had not had an oversight on what we were going to do, and it was done in such a short period of time that we did not even allow the Transportation Department an effective amount of time to set it up so it would be effective and not wasteful.

If you hear any complaints from the dealers, it is they don't know where they stand on whether they are going to get paid. They have no clue right now because even though they filed paperwork, getting that money to them—what we are seeing is a lot of problems with unhappy customers right now at the dealers because the Transportation Department cannot be efficient in administering this program.

I conclude by noting that if this is the standard under which we are going to reenergize our economy, then we ought to apply the same standard to every other industry. If we do, we will not be bankrupt in 11 years, we are going to be bankrupt next year.

I want our auto companies to succeed. There is no question there are stimulatory benefits to what we are doing, but it is at a great cost. As the Senator from New Hampshire noted, the net-net cost is $45,000 per net car that would not have been traded in. It is foolhardy.

I hope Members of the body will consider this amendment. I know they have been instructed to not consider it.

I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I appreciate the concerns the Senator from Oklahoma has raised. One question I would have is, if the amendment is adopted, would he in fact support a continuation of the program? Because he certainly made a number of other arguments in opposition, which I appreciate. I know those arguments as well. But I think, given all those arguments, this really is about trying to stop the program.

I urge my colleagues to oppose the amendment. It would absolutely derail what has been the most effective stimulus to date for us. It is about jobs, it is about helping small businesses.

With the concerns initially raised, some of the bureaucratic concerns initially—I have to tell you that NHTSA has been working fast and furiously in solving those problems. The National Association of Dealers strongly supports continuing this. I do not think they would if they believed it was not effective as a program.

Let me talk about the amendment specifically. It may be well intended, but there is no environmental benefit if the old vehicle is not scrapped—No. 1. The temporary CARS Program is specifically designed to maximize gas savings for consumers. In fact, so far the average savings is about $1,000, and for people in my State, that is a lot of money right now when you are pinching pennies and trying to keep things going in your household. That has been an extremely important part of this.

It is important to talk about the fact that this is a very limited program. It is very limited in scope. The funding extension will enable a replacement of less than .3 percent of the 250 million vehicles on the road. It does not compete with charities. The amendment is unnecessary because people can donate the value of the voucher to charity, if they want to. In fact, the voucher amount surpasses the value of the vehicle, so charities could actually receive more funds through a donation of the voucher, if someone wished to do that.

Also, the program, because it is temporary, does not affect long-term donations. In fact, we have met and worked with charities, discussed these issues,

because I strongly support the programs that have donations of automobiles to charities for the very reasons the Senator from Oklahoma talked about.

The reality is that there have been trends against donating cars in recent years. It is not because of the CARS Program, I have to indicate; it is because of a tax treatment change that was made under the Republican majority back in 2004 that has been a problem. If we want help the charities with automobiles, we would fix the tax treatment that was passed as part of the tax changes that were made under the Republican majority.

Also, many charities have indicated to us that they have not seen a drop in donations due to the program. What is most interesting is that we talked to some who have said they have actually seen an increase due to the heightened awareness of car recycling, particularly in owners who, after researching, find out they really do not qualify for the CARS Program but they are still looking to take advantage in some way of the deals that are out there on these great new vehicles, made in America. I hope people are going to be doing everything with their voucher to buy an American-made vehicle. The temporary program really has given people the opportunity to go out and shop and take a look at what is out there.

Pat Jessup, the president of Cars 4 Causes, has said that, ''oddly enough,'' car donations are up this month. Oddly enough, car donations are up this month. She adds:

> In fact, because of the increase in donations, Cars 4 Causes has staffed up to handle the in-coming calls.

What a nice byproduct of all the awareness right now, of the possibilities going out and buying a new vehicle.

To continue quoting her:

> Once the conversation about trading in or trading up or donating a car gets going the car owner begins researching possibilities, looking into tax deductions versus cash for the trade-in. Also, some have found their car does not qualify for the Cash for Clunkers Program, but while researching they discover the tax advantages of donating a vehicle. Then they call us.

I appreciate the concerns that have been raised, but, in fact, this program—raising awareness about the cars that are now available, the new or more fuel-efficient automobiles that are available in car dealerships all across the country, the ability to use the Cash for Clunkers Program, we are now seeing that other great programs where vehicles are donated to charities have actually gone up.

For that, among many other reasons, particularly because this amendment would kill the CARS Program, I urge a ''no'' vote.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I ask unanimous consent to have printed in the RECORD four news articles published in the last week about how cash for clunkers has negatively impacted charities. This comes from the North-West Cable News, Denver Post, Fox News, and nbc4.com.

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

NEWS QUOTES ON HOW CLUNKERS IS HURTING CHARITIES

NORTHWEST CABLE NEWS

''Cash for Clunkers'' hurting charities—

Some say the popular ''Cash for Clunkers'' program is taking cash out of the hands of local charities.

Animal Services of Thurston County depends on donations of up to $20,000 a year from Northwest Charity Donation Service. It's a service that relies on donated cars. But since the ''Clunkers'' program began, the source of funding is drying up.

''It's probably been at least a 40 to 50 percent drop in donations that people can choose to go to a charity of their choice from the area,'' said Thomas Jones, of Northwest Charity Donation Service.

Charities are also concerned that, as more cars end up at salvage yards, there will be fewer inexpensive used cars will be available for working families.

DENVER POST

Charities fear pinch from ''clunkers'' program—

Area charities reliant on car donations for funding say the government's ''cash for clunkers'' program might hurt them.

''If the government is going to give them a chunk of change for their clunker, then we're concerned that they're not going to come to us any longer,'' said Meaghan Carabello of Goodwill Industries Denver.

Last year, Goodwill and Cars Helping Charities, the third party that takes in the donations and sells them, took in 1,900 and 3,000 donated cars, respectively.

For Goodwill, that translated to about $220,000 in revenue.

FOXNEWS.COM

''Cash for Clunkers'' puts the brakes on donations—

Riteway Charity Services in Sun Valley, Calif. turns thousands of donated cars into money for local food banks, homeless shelters and Boys and Girls clubs. They say the recession put a dent in donations; they're down 30 percent from last year.

Now the car rebate program has really put the brakes on, leaving charities third in line. Charities can offer a tax write-off as little as $500 next spring. But that just can't compete with the program handing car buyers rebates of between $3,500 and $4,500 for trading in their gas-guzzlers for new, higher-mileage models.

The latest IRS figures show 300,000 cars were donated in 2005. And while the program may be a shot in the arm for dealers, charities that rely on donated cars say Uncle Sam has put them on life support.

NBC4I.COM

Cash for Clunkers could impact local charities—

Charitable groups count on the money they make from donated cars to help fund their programs. Now, the groups are afraid that donations are going to dry up.

Officials at Goodwill said they are worried that the Cash for Clunkers program will make people choose cash over charity and close the door on an opportunity to bring in money for local programs.

''When you pull 250,000 cars off the streets, maybe more, there are cars that could end up in our lots and help low-income buyers,'' Knowlton said.

''Every single car is an opportunity. We love every car,'' Hartley said.

Mr. COBURN. Madam President, I could be a whole lot more comfortable with this bill if you told me there was not another one coming in a month. But the fact is, what we are doing is buying forward sales. Every economist says that. Eighty percent of the sales that come in under cash for clunkers—we are just moving up sales that were going to be there anyway. There is nothing wrong with that as long as we say there comes a point in time we are not going to do that.

I wonder if my distinguished colleague from Michigan would commit to the body that we are not going to see another one of these bills in 2 months, 3 months, 4 months, or 5 months, we are going to subsidize the purchase of automobiles by stealing from our children in this country— regardless of the economic benefit for one particular industry. Is there an answer to that question? The fact that there is not an answer to the question means it is not going to stop with this one. As soon as this next program stops, and as soon as we run through the money, the sales are going to go right back down.

Then our option is going to be: Well, we have to do another one and another one because we are buying forward sales.

What we need is the health of the economy. I do not deny we need to inject the proper amount of fiscal stimulus, true fiscal stimulus, not a government transfer payment, which is 60 percent of the stimulus bill that was passed, but it is an interesting question: When does it stop?

If we are going to do it for automobiles, and let's say automobiles get healthy but the appliance industry does not, are we going to do it for the appliance industry? How much more can we afford to borrow from our kids? Those are legitimate questions that need to be addressed.

I understand the depth and breadth of the difficulties the States in the upper Midwest are feeling from this recession and especially the impact on the automobile companies. I want to be cooperative. I want to see them come out.

But it would certainly give us much less indigestion if we knew there was truly going to be an end and not another of these Cash for Clunkers Programs when the sales dribble right back down because all we did was stimulate forward sales into this sales period.

With that, I reserve the reminder of my time.

Mr. LEVIN. First, let my thank my friend from Oklahoma for raising some of these questions which are entitled to be debated. We are not alone in having a Cash for Clunkers Program. Other countries, including Germany, have had these programs. So we are not designing something from scratch. All auto-producing countries that I know of in the world are fighting to have an

auto industry come out at the end of this recession.

Unless we take action in a number of ways, that is not going to happen. So the Cash for Clunkers Program is based on a similar type of program in other countries, including Germany, where it has been very successful.

It is not my intent—to answer the other part of his question—it is surely not my intent that this program continue beyond this extension. No one can give an assurance as to what is going to happen in the future with this body or other Members of this body or, indeed, with myself. But it is not my intent that this be a continued program beyond this extension. The reason it was so essential that we have this extension is it was such a successful program. It sold out so quickly, we think our success actually overwhelmed us.

I don't believe, as the Senator from Oklahoma does, that people were buying forward. I think maybe the opposite happened. By the way, I think people may have been waiting until there was this kind of incentive because people are in desperate economic shape. Perhaps some of the people who knew there was going to be such a program may have held back in buying a vehicle.

But also the other prong of this program, besides the economic boost it gives to the economy overall, is the environmental part. That is the part which the Senator's amendment does not address. It is intended to get clunkers off the road, not just to get an economic stimulus into the auto area for sales of vehicles that benefit not just producers but car dealers and suppliers, but there is also a huge environmental benefit which has not only proven itself, but done much better than anybody could have expected.

That is ignored by the Senator's amendment, because keeping those cars on the road, as the Senator would do, denies the environmental benefit of the Cash for Clunkers Program. That is another reason I would oppose the Senator's amendment.

Mr. COBURN. Is it not true that the average plants were down for 10 weeks?

Mr. LEVIN. I do not know the number.

Mr. COBURN. Maybe 10 weeks. I know Chrysler was down longer than that. The fact is, when I drive by the auto dealers, and when I check the statistics with NHTSA, inventories are low.

So we are going to put $2 billion back out, when inventories are at half the level on the car lots of what they normally are. So if, in fact, you pass this, you might ought to spread it out over a period of time so the factories can get the cars to the dealers because that is a significant worrisome part on a lot of my dealers—that if you bring it back now, and you bring it back, we are not going to have the cars to sell them.

I did make a note before, I say to the chairman. He is my chairman. I get along with him great. I have great admiration for him. I am glad Oklahoma does not have any car manufacturing plants right now. I can tell you that. But I did make a point that it takes 153 billion BTUs to make a Toyota Prius. You have to drive that car, on average, 2 years before you are ever at breakeven.

So if you take a used car—and this program does not apply to used cars, right? It applies only to new cars. If you take a used car and compare it to a car of similar size, you are at least 2½ years before you ever get the first benefit, in terms of green, 2½ years.

So we may see a difference in those, but in terms of BTUs consumed, it is 2½ years before you see the first change in terms of carbon footprint under this program. Ultimately, I would admit to you there is a carbon benefit to it.

Mr. LEVIN. In response to the Senator, I think that same point is true with the purchase of any new car.

Mr. COBURN. Yes, it is true.

Mr. LEVIN. But the faster we get the more fuel-efficient cars, the better environmental impact we are going to have, even though there is that time period, obviously, when there is a carbon footprint that results from the production of the new car.

But you get to that 2½ years faster then if you buy that new car now than if you buy it a year from now or 2 years from now.

Mr. COBURN. Well, 2 years from now, it is going to have 4 or 5 miles better mileage.

Mr. LEVIN. It may. We do not know that.

Mr. COBURN. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Madam President, 1 week after commencing the $1 billion Cash for Clunkers Program, it is so popular that it has used up all its funds.

Could it be that through this program, which entices car buyers with up to $4,500 to trade in their old cars, the government has finally devised a smart way to stimulate the economy?

In a word, no.

Instead, the Federal Government has sent another $1 billion of taxpayer funds into the economic abyss with $2 billion of taxpayers' funds to follow.

It has robbed Peter to pay Paul, to give a kickback to the automotive industry.

Advocates of the Cash for Clunkers Program state the additional $2 billion in funding is necessary because the program is such a great success.

Of course it is. Who does not want free money?

The Cash for Clunkers Program is simply another bailout to prop up a struggling industry wrapped in the political guise of an environmentally friendly program.

While I agree that there are benefits to getting older, less fuel-efficient vehicles off the road, do not be fooled. That is not even what this program accomplishes.

Let me explain.

Under the Cash for Clunkers Program, it does not matter how big a difference in gas mileage there is between the car you are trading in and the car you are buying.

The trade-in must only meet the 18 miles per gallon requirement to be considered a clunker.

After that, environmental concerns end.

As a result, under the Cash for Clunkers Program, replacing an 18 miles per gallon vehicle with one that offers 22 miles per gallon gets a subsidy.

But you do not receive any Federal funds if you replace a 19 miles per gallon vehicle with one that gets 40 miles per gallon.

If improving gas mileage is the goal, then a sliding scale that adjusted the subsidy with the difference in gas mileage between old and new cars would seem reasonable.

Or if reducing emissions from older cars is the objective, the subsidy could be larger for trading in older vehicles.

The Cash for Clunkers Program does not do either.

So, if there are no significant environmental benefits, then the goal must be to help stimulate the economy.

Yet the program has done little to actually stimulate the economy.

Many of the individuals taking advantage of the program's subsidies are not new car buyers spurred by this incentive package, but instead those who put their purchase on hold waiting for the program to launch.

Simply put, these buyers would have bought the car anyway.

Edumunds.com, a noted online site for car sales, stated this number could be over 100,000 car buyers.

Further, Edmunds also published an analysis showing that in any given month, 60,000 to 70,000 ''clunker-like'' deals happen with no government program in place.

Therefore, the 200,000 deals the government was originally prepared to fund through the Cash for Clunkers Program were likely the natural ''clunker'' trade-in rate.

This program squeezed months of normal activity into just a few days.

When the backlog is met, interest in the program will fade, and the façade of economic benefit will disappear.

The Cash for Clunkers Program is a shell game of transferring wealth from the pockets of one taxpayer to another.

We should call it what it really is, another billion dollar auto bailout.

This program is little more than a clunker itself.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 2303

Mr. VITTER. I ask unanimous consent to call up Vitter amendment No. 2303 to the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 2303.

Mr. VITTER. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

AMENDMENT NO. 2303

(Purpose: To provide for a date certain for termination of the Troubled Asset Relief Program)

At the appropriate place, insert the following:

SEC. _____. TERMINATION OF TARP.

Section 120 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5230) is amended—

(1) by striking subsection (b); and

(2) by striking ''(a) TERMINATION.—''.

Mr. VITTER. I urge bipartisan support of the Vitter amendment. It is very simple and straightforward but important. It ends the TARP bailout program on a date certain, the date certain originally set out, which is December 31 of this year.

Under the TARP bailout legislation, the program is supposed to end on that date. However, there was some fine print. The fine print said the Treasury Secretary unilaterally can say: No, we need to extend it. On his own, with no additional vote of Congress, he can extend it until October 3, 2010.

I think any such extension would be absolutely contrary to the best interests of the Nation, and I believe we should act and simply take that extension authority back and wind down the program and end the program, the bailout, in an orderly way on the original intended date of December 31 of this year.

I think we should do this for three clear reasons. First of all, the biggest reason is simply the TARP bailout program was rushed through Congress in what was described as an impending and indeed a cataclysmic crisis. We were told by several experts certainly, including the Treasury Secretary and the Chairman of the Federal Reserve, that the financial system was in imminent danger of collapsing. I am not exaggerating. I am simply repeating their statements from last fall.

So Congress, certainly over my objection, passed the TARP bailout program in that atmosphere of absolute crisis. Well, we may disagree about where we are getting toward recovery and what we see for the next year. But I think we can all agree that imminent collapse, if it was ever before us, is not before us now; that huge so-called cataclysmic crisis, if it was ever a threat, has passed. So the whole rationale for the extraordinary $700 billion TARP bailout program, that crisis, has clearly passed.

Again, I am not saying we are out of this recession. I am not saying we are not in tough economic times. I am not saying we do not have a lot further to go in recovery. I am saying no one believes the world financial system is in imminent danger of collapse or will be, thankfully, anytime soon.

Clearly, the entire rationale for such an extraordinary and unprecedented use of government power and intervention and the use of $700 billion of taxpayer funds, that rationale has passed.

Reason No. 2 is that the TARP bailout, in practice, has become nothing more than a political slush fund and has been used in many different ways, never as it was originally designed.

Of course, we all heard, when it was originally proposed, that it was a toxic asset purchase program; it would be used for one purpose and one purpose only—for the government to buy toxic assets to get them off the balance sheets of troubled financial institutions. That was the sum and substance, 100 percent of the original design and rationale. As we all know, it never was used in that way. Literally within a few weeks of Congress passing the program last fall, it morphed completely. We weren't going to use it to buy toxic assets anymore. Then it morphed into an equity investment program for the largest banks that were deemed too big to fail. That, of course, has been carried out to the tune of not just $700 billion but trillions of dollars, as this money is constantly reprocessed.

Next TARP was morphed again and used as a slush fund to bail out two auto companies. Specifically, the administration—at the time, the Bush administration—said: No, TARP is not about manufacturers, auto companies, at all. It is not about that. It is about financial institutions. Nevertheless, it was morphed again, used as a slush fund to bail out two auto companies. And there are many different, smaller programs which have been devised and funded out of the TARP bailout slush fund.

TARP has been consistently used by the government for whatever different purpose, whatever new bright idea the administration—first, the Bush administration and now the Obama administration—decides is a good thing to do. It has truly become a slush fund, open-ended, no limits, that the administration can use pretty much however it wants. There doesn't seem to be any real or meaningful limitation. So far the original $700 billion program has grown to reach $3 trillion. That is because some money is paid out. It is paid back in. It is reprocessed.

According to SIGTARP, the group that monitors this, the total financial exposure of TARP and TARP-related programs, when we look at all of the myriad activities, may reach $3 trillion.

Third and finally, the third important reason we should establish this date certain to wind down the TARP bailout slush fund is that from the very beginning, TARP has not been transparent. It has been very opaque. It has been ripe for fraud. Unfortunately, there are numerous pieces of evidence and media accounts to bear this out. For instance, on July 21, Neil Barofsky, special inspector general for the TARP program, issued a quarterly report to Congress. In it, he said: As of June 30, there are 35 ongoing criminal and civil investigations about misuses of money; Federal felony charges against Gordon Grigg, FTC action against misleading use of MakingHomeAffordable.gov, and on and on.

In its quarterly report issued in July, SIGTARP said that the Treasury ''has repeatedly failed to adopt recommendations that SIGTARP believes are essential to providing basic transparency and fulfill Treasury's stated commitment to implement TARP 'with the highest degree of accountability and transparency possible.' ''

Specifically, SIGTARP had four key recommendations, and they have not been implemented in any meaningful way.

The Vitter amendment is very simple, very straightforward. Let's abide by the original end date for the TARP bailout fund—December 31 of this year. Let's take back the unilateral authority the Secretary of the Treasury now has to extend that to October 3 of 2010, for three simple reasons: No. 1, there is no impending crisis anymore; No. 2, TARP has been used as a slush fund for everything under the Sun except the original purpose of buying troubled assets; and No. 3, TARP has never been transparent, open, and aboveboard. It is rife with fraud and misuse, unfortunately, documented by criminal prosecutions, IG reports and the like.

I urge my colleagues, Democrats and Republicans, to support this reasonable amendment.

I retain the remainder of my time.

AMENDMENT NO. 2306

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I ask unanimous consent that the pending amendment be set aside and the clerk call up amendment 2306.

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

The clerk will report.

The legislative clerk read follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 2306.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide an income tax credit for certain home purchases, and to transfer to the Treasury unobligated funds made available by the American Recovery and Reinvestment Act in the amount of the reduction in revenue resulting from such credit)

On page 3, after line 11, insert the following:

Effective on the date of the enactment of this Act—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a principal residence during the taxable year, there shall be

allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

''(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed $15,000.

''(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after the date of the enactment of the Act entitled 'Making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.', and

''(B) on or before the date that is 1 year after such date of enactment.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other principal residence.

''(c) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

''(2) PURCHASE.—In defining the purchase of a principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence after December 31, 2009, and on or before the date described in subsection (b)(1)(B), a taxpayer may elect to treat such purchase as made on December 31, 2009, for purposes of this section.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

(B) Section 25(e)(1)(C)(ii) of such Code is amended by inserting ''25E,'' after ''25D,''.

(C) Section 25B(g)(2) of such Code is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(D) Section 904(i) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(E) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 25E(g).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

(4) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(A) IN GENERAL.—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''before December 1, 2009'' and inserting ''on or before the date of the enactment of the Act entitled 'Making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.' ''.

(B) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''before December 1, 2009'' and inserting ''on or before the date of the enactment of the Act entitled 'Making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.' ''.

(5) EFFECTIVE DATE.—The amendments made by paragraphs (1) through (4) shall apply to purchases after the date of the enactment of this Act.

(6) TRANSFERS TO THE GENERAL FUND.—From time to time, the Secretary of the Treasury shall transfer to the general fund of the Treasury an amount equal to the reduction in revenues to the Treasury resulting from the amendments made by paragraphs (1) through (4) of this subsection. Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5), such amounts shall be transferred from the amounts appropriated or made available and remaining unobligated under such Act.

Mr. ISAKSON. Madam President, I want to address this amendment for a moment, and I want to set the stage for the amendment. This amendment was first offered by myself and others in January of 2008. It is an amendment that would provide a $15,000 income tax credit to a family that purchases and occupies as their home any single-family dwelling in the United States, regardless of their age, their income, or their State. Six months later, in the middle of 2008, the Finance Committee did pass a $7,500 tax credit which was an interest-free loan, trying to incentivize first-time home buyers to come to the market. But because it was a loan, it didn't do anything. So in December of last year, we changed it to an $8,000 tax credit for only first-time home buyers with incomes less than $75,000 for individuals and $150,000 for couples.

It has worked. In fact, if we look at sales figures from January through through July, we will find that entry-level housing, that housing under $180 to $200,000, has actually begun to recover. But if we examine the marketplace, we find terrible numbers, such as the following: 47 percent of all the homes in the United States of America are worth less than what is owed upon them. That is a tragedy. Worst of all,

in the month of June, 57 percent of all sales in America were foreclosures or short sales; 43 percent were arm's-length sales. The housing market continues to flounder. Values continue to decline, and equities continue to dissipate.

This amendment is added to the cash for clunkers bill for a very important reason. As Senators STABENOW and LEVIN will tell us, the up-to-$4,500 incentive to buy a new, fuel-efficient car by trading in an old gas-guzzling car worked. It worked so well that in 1 week the money disappeared.

That demonstrates what I have known all my life. Positive incentives cause positive results. The problem is, though, it was not the automobile market that disappeared first in America. It was the collapse of housing in the last quarter of 2007, which accelerated in early 2008, which pulled away the equity, reduced the amount of credit folks had and caused car loans to go bad and people to not buy cars. The only way we will ever turn the U.S. economy around is to return the biggest engine of the U.S. economy and that is the construction industry and single-family construction and single-family homes.

Right now we are stagnant. The problem is not with first-time buyers. It is with move-up buyers. It is the fellow who has transferred from Atlanta, GA to Hartford, CT who can't sell the house in Atlanta because there is no buyer for it and can't buy a house in Connecticut because he doesn't have the equity out of Atlanta. This tax credit does not take other people's tax money and give it to you to buy a house. It gives you a credit against the taxes that you owe. Rather than buying a depreciable asset such as a car, you are buying an appreciable asset such as real estate. It has a multiplier effect.

When we offered this amendment last year, it was estimated by one economist that it would create 700,000 sales in one year and 685,000 jobs. If there is anything America needs, it is just that. So just as cash for clunkers has demonstrated that positive rewards can cause positive actions on behalf of the consumer, so too would the tax credit do the same.

By the way, the cost of this credit is estimated by CBO at $34.2 billion. In January of 2008, they said that is too much money. Since then, we have spent $85 billion on AIG, $700 billion on TARP, $787 billion on a stimulus, and we are still floundering; and $34 billion sounds like a pretty cheap price to address what is the principle problem in the economy. This amendment says it is paid for. The Secretary of the Treasury is authorized to transfer from the stimulus money to the Internal Revenue Service the claims to cover the tax credits filed by homeowners when they pay their taxes for the houses they have purchased.

Finally and most importantly, there is a rude awakening coming in America, and it is coming on November 30, 2009. That is when the existing tax credit for first-time home buyers goes away. The last incentive for an arm's-length sale will have disappeared. If we think we have economic difficulties now, wait until that happens. But with this amendment, we take, from the date of its passage 1 year ahead, which would be sometime in August of next year, a $15,000 nonmeans-tested credit to replace the $8,000 means-tested credit.

If the economists are right—not me—it will do the one thing the U.S. economy desperately needs. It will generate a legitimate housing market. Values will stabilize. We will reflate in the value of homes. People will buy more cars because of that than they will because of cash for clunkers. So we want to take the evidence of the success of this program, take what we already know has worked in a means-tested manner in first-time home buyers, and apply it to every American, because every American is suffering in this economy. Every American deserves us to look for positive incentives to bring the economy back, restore their equity, improve their value, and return us to a vibrant economy. I hope the men and women of the Senate will adopt this amendment.

To those who are going to say, we can't do it because the House is gone, I ask this question: If we were talking about health care and one body had passed it, the House would be back here in a New York minute. They could come back in a hurry, and we know it.

Restoring our economy is important. Recovering the equity of our homes is important. Repaying the American people for the dissipation of our marketplace is important. The home buyers tax credit will do it. I urge my colleagues to vote yes on the Isakson amendment.

I reserve the remainder of my time.

AMENDMENT NO. 2303

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I rise to address the Vitter amendment. The Senator from Louisiana has offered an amendment that would end the so-called TARP program on December 31 of this year and remove the Secretary of the Treasury's discretion to extend the deadline until October of next year. I can understand why that might be a popular idea, but I think it is important to point out that we are far from being out of the woods in terms of the economic difficulties we face. Members don't need to hear that from me. We still have about 20,000 people a day losing their jobs. We have around 10,000 people a day getting foreclosure notices on their homes. We know there is still an emerging problem with commercial real estate that has yet to be addressed. It is looming out there and demanding some attention. The housing market is stagnant, even though there have been Herculean efforts offered by our colleague from Georgia, who just spoke, for first-time home buyers on which I joined him to provide some incentives for people to move forward, including his most recent proposal. Losses on bank balance sheets are increasing still despite the fact that there are very positive signs.

I don't deny that, in fact, there seems to be an improvement, an ever so slight improvement in the right direction. But at this juncture, anyone who can say there is no longer any reason for us to take what funds remain within the TARP program, this is not adding to the funds. This is merely a question of whether the program ought to be terminated at the end of this year or extended for about 7 or 8 months into next year.

I urge my colleagues not to, at this juncture—without anyone being clairvoyant—anyone who sits here and tells you there is no longer any need for this, I do not think is listening very carefully or watching very carefully what is occurring in the economy.

So while we would all like the crisis to be behind us, and we would all like to stand here and say there is no longer going to be any need for any of these additional funds within the TARP program as they exist, I do not know of any one of us who could say with certainty what the future holds.

I believe it is very important we have this authority extended beyond the 31st of December into October of next year to give us the opportunity to respond, should we need to, with some additional support to various sectors of our economy that could help us avoid what we have avoided so far; and that is, a deepening and further economic crisis.

With that, when the vote occurs on the Vitter amendment, offered by our colleague from Louisiana, I would urge our colleagues to reject this amendment, not because we do not want to end the program—we do—not because we are in favor of more resources going to TARP. That would be a hard vote. This merely says: Does the program get to extend beyond the 31st of December of this year? There is no request here for additional funding—merely having the funds that exist and to extend it for another 8 or 10 months to give us the opportunity to respond, should the facts require it.

I do not think we want to look back, in January or February, and have to go back through reigniting or starting all over again another program, given the difficulties I think we would face trying to achieve that result. It is better to keep the program that has been in place and has been working and which has made a difference over these past many months than to abandon the program at this juncture when the program very well may be needed.

With those thoughts in mind, I would urge our colleagues at the appropriate time to reject this amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I also rise in opposition to the Vitter amendment.

First of all, this amendment, as my distinguished colleague has indicated, would limit the government's options in dealing with the financial crisis by prohibiting and restricting the extension authority. It would take away a very important option at this time that we should be retaining and, frankly, send the wrong signals to the markets when our markets are so fragile.

At a time when we are beginning to see small signs of improvement, small signs—and we will not see real signs until people have jobs and are working again—but restricting the administration's ability to stabilize the financial markets is dangerous and it is counterproductive to our economic growth.

Unfortunately, this amendment would actually undercut one of the most effective programs to help the economy we have seen. We know, as we have said before, if there are any amendments that are adopted, then this effectively kills the CARS Program.

So for a multitude of reasons, I would urge a ''no'' vote on this particular amendment.

Mr. DODD. Madam President, will my colleague yield for a moment?

Ms. STABENOW. Madam President, I am happy to yield.

Mr. DODD. Madam President, I inquired—and I appreciate the Senator's comments—I inquired how much in resources are remaining in the TARP program. I suspect it is a question where my colleagues would like to know what remains or what has come back. As a result of a number of financial institutions having paid the money back, I am now told we have something around $170 billion left in the TARP program or that is what remains of the $700 billion. There is every anticipation there will be resources continuing to flow back in.

So I want to provide some assurance to our colleagues that I do not see any circumstance in which, at this juncture, there would be a request for additional TARP funds. I think that is probably on people's minds. So by extending the program into October of next year, it is very important my colleagues understand we are not asking for any additional funds. The funds that are in the program and that will come back could be used—hopefully will not need to be used—for any emergency that occurs after December 31. But there are adequate resources there that should make it unnecessary for this body to come back and to seek additional funds in the TARP program. I think it is an important point to make for our colleagues.

Madam President, I thank my colleague for yielding.

Ms. STABENOW. Madam President, it was my great pleasure to yield and it is a very important point to raise and I appreciate the distinguished chairman of the Banking Committee for his comments, as he has led us on so many of these issues to bring us out of an incredibly difficult economic situation for the country.

AMENDMENT NO. 2306

Madam President, I also wish to speak, briefly, on the Isakson amendment, which I happen to support. At other times, in other places, I absolutely agree we need to continue to jump-start the housing market. I think we have seen that the $8,000 first-time home buyer tax credit has been a positive. I support expanding that.

When we look at what families choose to purchase, what their biggest purchases are, for most families it is their home and it is their automobile. We have actually modeled the CARS Program after the same kind of argument that caused the Congress and the President to support the stimulus, the $8,000 first-time home buyer tax credit. I think we ought to seriously look at ways to expand that, and I very much appreciate the leadership of the Senator from Georgia on this issue.

But the reality is, if we were to adopt this amendment to help those who are interested in buying a home, we would hurt people who need to buy an automobile and the stimulus that has worked so well, so quickly, in the CARS Program.

So I would ask for a ''no'' vote on this particular amendment simply because, at this point in time, we know what this is all about. Let's face it. We know what is happening here. Those who are opposed to the underlying bill, to the CARS Program, know if there are any amendments that are adopted, then the entire program will be ended. It will be done.

We are hearing from auto dealers all across the country, as well as consumers, as well as those who provide the materials for automobiles—we have heard from the steel industry, we have heard from the aluminum industry, we have heard from those who benefited from advertising, we have heard from all those in the long line of people who benefit from the auto industry and manufacturing in this country—that this has worked in stimulating the economy, getting people back into showrooms.

Even if people do not qualify for the program, they get back into the showroom, and they look around at these great automobiles. I should say, a lot of them are made in Michigan. We look for those. But the reality is, there are great automobiles that are out there now, and people are taking this time to go in and to shop and buy automobiles, even if they are not part of the program.

So we are hearing from dealers all across the country talking about the success of this program. It is something for consumers, something people can see that is tangible. It is not just a debate about what might happen sometime in the future, but it is about right here, right now, how do we help consumers?

The added benefit, as we know, is that because we said you need to buy a more fuel-efficient vehicle, we are seeing, in fact, the fuel economy go up, savings go up. We are told right now the average vehicle that is being turned in gets a little bit above 15 miles per gallon; and people are buying vehicles that are getting a little under 25 miles per gallon. That is about $1,000 back in somebody's pocket saved on gasoline. And, boy, wouldn't we all like to have $1,000 back in our pockets right now as a result of a stimulus program that supports people's efforts to get into a more fuel-efficient vehicle? This has been a winner on every front.

We know, at this point in time—after the quick action in the House of Representatives last Friday when it became clear the initial funding was going to be running out—we have known since then, with the House gone, the opportunity to continue this program depends upon our willingness to step up and support the House bill without changes. We all know that.

I would challenge anyone offering an amendment, if their amendment is passed, does that mean we have their vote on the underlying bill? Because that would be a great concern of mine. At the moment, I think what we have are ideas that are good and ideas that are not that are being offered. But everybody knows, in the end, any amendment that is adopted, no matter how well intended—and I know there are well-intended efforts, good ideas, good ideas such as the Isakson amendment, which in another venue I have supported and will support—but right now, on this bill, if we make any changes, we are saying to every small business dealer, every dealer across the country: We don't care whether this has worked, we don't care whether this is effective, we don't want to support you, and we don't want to continue it. We are saying the same thing to consumers. We are saying the same thing to those who care desperately about the auto industry and manufacturing in this country.

So I am very hopeful we will reject all the amendments that are in front of us. On those I support, in terms of the substance, I look forward to working with colleagues in the future, to come back in other ways to put forward these ideas. There are certainly very good ideas that have been put forward, as well as ideas that I do not believe are positive.

But right now the only question in front of us is: Do you support the CARS Program? Do you support the small business dealers across this country? Do you believe this economic stimulus should be continued—an economic stimulus that has worked so well?

I have to say, in closing, I have said before, my father and my grandfather were auto dealers back in the days of Oldsmobile, which dates me. But I know what it was like growing up in a small town where this dealership was so important in terms of employment, in terms of supporting the community,

and all that was going on. I know how hard they worked.

My first job was washing cars on the car lot. I understand all that goes into a family-owned business and how much our dealers care about their community, about their business, about their employees. This is about them. This is about supporting people who support their communities, who create jobs, who have had a very, very, very tough time in this economy.

Here we have the great opportunity to support something, not based on faith, not based on some intellectual argument but based on the fact it is working. So I would urge all my colleagues to vote no on the amendments and to join us in extending, as we go into the August recess, a very important and effective stimulus for the American economy.

Thank you very much, Madam President.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Madam President, how much time is left in opposition to the Isakson amendment?

The PRESIDING OFFICER. A full 15 minutes.

Mr. LEVIN. Madam President, I ask unanimous consent—I am not sure who controls the time in opposition—that I be allowed to use 3 minutes of that time.

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

Mr. LEVIN. Madam President, the Isakson amendment is an example of an amendment which is not only well intended but an amendment that I happen to favor and have favored on a number of occasions on this floor.

One of the problems, though, is it is very clear we have a choice before us. We are either going to have an extension of the Cash for Clunkers Program, with passage of the House bill without any changes in it, or it is going to die. Passage of the Isakson amendment is not only well intended, but as good an amendment as it is, it will defeat both. We cannot get the Isakson amendment passed into law by adopting it here. It would be added to a bill which is going to go nowhere except to a House which has been adjourned. And we cannot keep this Cash for Clunkers Program going unless we adopt the House bill today.

If we leave without adopting the House bill or amending the House bill, it is the end of the most successful program we have seen in the stimulus package. That is the choice. So adopting the Isakson amendment does not get us where Senator ISAKSON wants us to get, and it destroys the Cash for Clunkers Program extension.

It has been a highly successful program, probably the most successful of any of the stimulus packages, at least to date. We are put in a position—a number of us—of voting against these amendments, amendments, for instance, as well intended as is the Harkin amendment. Voting against an amendment such as that is difficult, we know that, but we did it a week ago. We had to do it when the highway trust fund came up. We had to vote against an amendment which most of us, I believe, favored, which would have produced money for our States, in order to have a bill passed without any amendment so that we could get it done because the House was about to adjourn. So we were put in that position. It is not unusual around here that we are put in this position. It is a fact of life around here. It is not hard to explain back home why we had to do this.

So if we favor the cash for clunkers extension, we have to vote against every amendment. There cannot be a change. There cannot be a period, a comma, a word, a paragraph changed in the House bill. If there is, it is the death knell for this very successful program.

So I hope we will vote against all amendments. Some of them are very difficult to vote against. Some of the amendments we may have voted for before, including the Isakson amendment. Some like the amendment of Senator HARKIN, which is such a well-intended amendment. It has other complications to it, by the way, which would require it being modified, I believe, if it were going to have the effect that is intended, which would require regulations to be adopted, and that would take so long in any event that holding up the cash for clunkers bill for that to happen would also be the death knell for this bill that is so valuable.

So I yield the floor.

Mrs. MURRAY. Madam President, I would just let all Senators know that we are working to probably move to the votes fairly shortly, as soon as we get a unanimous consent agreement. So at this time I would suggest the absence of a quorum.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. Does the Senator withhold her request?

Mrs. MURRAY. I withhold.

Mr. GREGG. Madam President, I ask unanimous consent to include additional cosponsors to my amendment: Senator ALEXANDER, Senator CORKER, Senator CORNYN, and Senator ENZI.

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

Mrs. MURRAY. 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.

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

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

Mrs. MURRAY. Madam President, I ask unanimous consent that the vote sequence with respect to the pending amendments be the following, and commence once this agreement is entered, with no further debate except as specified below:

Harkin amendment No. 2300, Kyl amendment No. 2301, Gregg amendment No. 2302, Coburn amendment No. 2304, Vitter amendment No. 2303, and Isakson amendment No. 2306; that the previous order with respect to 2 minutes of debate, equally divided and controlled in the usual form, prior to each vote, and vote time limitation, after the first vote remaining in effect; further that upon disposition of the pending amendments, the bill, as amended, if amended, be read a third time, and the Senate proceed to vote on passage of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2300

Mrs. MURRAY. Madam President, I believe the pending amendment is the Harkin amendment, and he has 1 minute.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I have an amendment to my amendment that I send to the desk. I ask unanimous consent that I be allowed to make a modification to my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, and I will object for reasons I have discussed with Senator HARKIN, any amendment to this bill will end the bill. It is a death knell for the bill. The modification also would have another delay even if it didn't kill the bill, even if it were passed and the House were able to adopt it. It requires regulations to be adopted which would take time. It would be a stopping and starting of the program. It would create a great deal of confusion.

This is an extremely well-intended amendment. I give Senator HARKIN a lot of credit for what he is aiming to do, but it cannot achieve its purpose the way it is drafted. The way it would be modified would take a significant period of time to be modified. It would result in a stop-and-start situation of the Cash for Clunkers Program. So, reluctantly, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator has 1 minute on his amendment.

Mr. HARKIN. Madam President, in good faith last year, I tried to get this in the bill and it didn't work. I tried it again with this amendment. I was informed there was a problem with it, which I recognized. I tried to again in good faith offer a modification to it. My friend from Michigan is right; it does require some determinations by the Secretary which probably would take some time. I am not certain that is all that much of a reason to not allow it.

I still believe there should be an income cap. But the way the amendment is now drafted, quite frankly, I couldn't even support it because it didn't do what I originally wanted to do. There was an error in drafting. I tried to amend it. I can't seem to get the job done because of the time constraint. There was an action on my amendment; therefore under the rules, I have to have consent to get it modified. I have heard an objection to that. Since I can't get——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. HARKIN. Since I can't get it done, since I can't modify it, I move to table my own amendment.

The PRESIDING OFFICER. Time remains on the amendment, so the motion to table will have to wait until the time has expired.

Mr. HARKIN. Well, I will not have any time left.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. The Senator has a right to table his amendment. I would simply say that while he is correct that his amendment would be better if it were modified, and he would have had no objection on our side to that modification, it still makes an important point and I think it would have been supported by many people on our side of the aisle. I, frankly, would vote against the motion to table myself because I think it does make an important point, and I think we should be able to debate it and dispose of it.

The Senator has a right to table his amendment. I would urge those on our side to vote against the motion to table.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. The motion to table is in order now.

Mr. HARKIN. Madam President, I move to table my amendment.

Mr. KYL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 32, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—65

Akaka	Burris	Dorgan
Baucus	Cantwell	Durbin
Bayh	Cardin	Feingold
Begich	Carper	Feinstein
Bennet	Casey	Franken
Bingaman	Collins	Gillibrand
Boxer	Conrad	Hagan
Brown	Crapo	Harkin
Brownback	Dodd	Hutchison
Inouye	Menendez	Snowe
Johnson	Merkley	Specter
Kaufman	Murray	Stabenow
Kerry	Nelson (NE)	Tester
Klobuchar	Nelson (FL)	Udall (CO)
Kohl	Pryor	Udall (NM)
Landrieu	Reed	Voinovich
Lautenberg	Reid	Warner
Leahy	Risch	Webb
Levin	Rockefeller	Whitehouse
Lieberman	Sanders	Wicker
Lincoln	Schumer	Wyden
McCaskill	Shaheen	

NAYS—32

Alexander	DeMint	Lugar
Barrasso	Ensign	Martinez
Bennett	Enzi	McCain
Bond	Graham	McConnell
Bunning	Grassley	Murkowski
Burr	Gregg	Roberts
Chambliss	Hatch	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	

NOT VOTING—3

Byrd	Kennedy	Mikulski

The motion was agreed to.

Mrs. MURRAY. Madam President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2301, AS MODIFIED

Mrs. MURRAY. Madam President, I believe the Kyl amendment is in order.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Who yields time?

Mr. KYL. Madam President, automobile dealers view this program a little like ''A Tale of Two Cities''—the best of times and the worst of times. They are selling more cars, but they don't know if they are going to get paid from the Cash for Clunkers Program because there has been no ability to track the sales. As a result, we don't know whether we spent $1 billion, less than $1 billion, or more than $1 billion.

My amendment simply calls a timeout. It says if the amount of money exceeds $1 billion, then appropriate the amount of money that is needed to pay the obligations on the deals that have already been made and qualified. Then set up a process to track the money in such a way that we can tell whether we have exceeded the next appropriated amount.

That is the essence of the amendment. It asks for a study to determine whether there should be one other change; namely, a change to the particular fuel standard we are applying to the cars. Some believe it should be a slightly higher fuel standard.

I hope my amendment will be adopted to call a timeout, pay the obligations we have already made, and determine a method to track the money in the future so that if we do this again, we know exactly how much we have spent, the dealers can get paid, and the customers have the assurance that their deal can go through.

The ACTING PRESIDENT pro tempore. Who yields time in opposition?

The Senator from Michigan.

Ms. STABENOW. Madam President, I urge a ''no'' vote on this amendment. This will stop this incredibly successful stimulus on Saturday. It will say to the 160,000 dealers all across this country that we are not willing to support something that has brought people into their showrooms. Whether qualifying for the CARS Program or not, people are coming in and buying automobiles. We are talking about a stimulus. We are talking about jobs. We are talking about moving the economy forward.

We all know if this amendment is adopted, or if any amendment is adopted the CARS Program will be ended. For those of us who believe it makes sense for consumers, for business, for the economy, I ask for a ''no'' vote.

Mrs. MURRAY. Madam President, have the yeas and nays been ordered on this amendment?

The ACTING PRESIDENT pro tempore. They have.

The Senator from Michigan.

Mr. LEVIN. Is there any time remaining in opposition?

The ACTING PRESIDENT pro tempore. All time has expired.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 57, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—40

Alexander	Enzi	McConnell
Barrasso	Graham	Murkowski
Bayh	Grassley	Nelson (NE)
Bennett	Gregg	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Lugar	Warner
Crapo	Martinez	Wicker
DeMint	McCain	
Ensign	McCaskill	

NAYS—57

Akaka	Feingold	Merkley
Baucus	Feinstein	Murray
Begich	Franken	Nelson (FL)
Bennet	Gillibrand	Pryor
Bingaman	Hagan	Reed
Bond	Harkin	Reid
Boxer	Inouye	Rockefeller
Brown	Johnson	Sanders
Brownback	Kaufman	Schumer
Burris	Kerry	Shaheen
Cantwell	Klobuchar	Specter
Cardin	Kohl	Stabenow
Carper	Landrieu	Tester
Casey	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Levin	Voinovich
Dodd	Lieberman	Webb
Dorgan	Lincoln	Whitehouse
Durbin	Menendez	Wyden

NOT VOTING—3

Byrd	Kennedy	Mikulski

The amendment (No. 2301), as modified, was rejected.

Mrs. MURRAY. Madam President, I move to reconsider the vote, and to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2302

Mrs. MURRAY. Madam President I believe that the Gregg amendment is in order.

The ACTING PRESIDENT pro tempore. The Gregg amendment is the pending question.

The Senator from New Hampshire.

Mr. GREGG. Madam President, I don't happen to agree with this proposal, but what I certainly don't agree with—and I assume most of my colleagues don't agree with—is that we should be paying for this by putting the debt on our children's backs. Yet that is exactly what is going to happen.

The chairman of the Appropriations Committee in the House has been very forthright. He said he spoke to the White House, he spoke to the Speaker, and he said the funds with which this program is being funded were taken out of the stimulus, and what he is going to do is replenish the stimulus. So we are essentially going to borrow twice to do this program, and both times we are borrowing from our kids.

My amendment simply enforces our ability to actually pay for this program, which is what we should do—No fig leaves, just a real exercise in actually paying for a program, rather than passing the bill on to our kids, as we seem to do around here so regularly. I hope people would vote for this amendment.

Mr. LEVIN. Madam President, this amendment would have an across-the-board cut to the appropriations bill of $2 billion, including appropriations bills that have already passed. It is a recipe for chaos in the appropriations process. The pay-for is in the bill for this $2 billion package.

In addition to all of that, any amendment to this bill will kill the program. So if you want to kill the program as well as create havoc in the appropriations process, then you will vote for the Gregg amendment; otherwise, you will vote no.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, I raise a point of order that the pending amendment violates section 306 of the Congressional Budget Act of 1974.

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

Mr. GREGG. Madam President, pursuant to Section 904(c), I move to waive the 306 point of order, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 51, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—46

Alexander	Crapo	McCain
Barrasso	DeMint	McCaskill
Bayh	Ensign	McConnell
Bennet	Enzi	Murkowski
Bennett	Graham	Nelson (NE)
Bond	Grassley	Risch
Brownback	Gregg	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Snowe
Coburn	Isakson	Thune
Cochran	Johanns	Vitter
Collins	Kyl	Warner
Conrad	Lincoln	Wicker
Corker	Lugar	
Cornyn	Martinez	

NAYS—51

Akaka	Gillibrand	Nelson (FL)
Baucus	Hagan	Pryor
Begich	Harkin	Reed
Bingaman	Inouye	Reid
Boxer	Johnson	Rockefeller
Brown	Kaufman	Sanders
Burris	Kerry	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Dodd	Leahy	Udall (CO)
Dorgan	Levin	Udall (NM)
Durbin	Lieberman	Voinovich
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Murray	Wyden

NOT VOTING—3

Byrd	Kennedy	Mikulski

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 46, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

Mrs. MURRAY. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

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

AMENDMENT NO. 2304

Mrs. MURRAY. Madam President, I believe the Coburn amendment is the next in order.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. COBURN. Madam President, this is a simple amendment. Rather than throw great cars away, give them to poor people. One of the biggest problems we have with rural health care and health care associated with our citizens of color in this country is the fact that they do not have transportation to get their health care.

Under this bill, already we will destroy $500 million worth of good automobiles. As we pass this bill we are going to destroy another $1 billion worth of automobiles.

It would seem to me, since the charitable organizations are so good at utilizing these cars and we have such a need, especially with the economic downturn we have, that we ought not be throwing them away and ruining them. What we ought to be doing is giving them to those who have greater need than those who are turning them back.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I again ask for a ''no'' vote. This will kill the program. I think it is important to know, we have worked closely with charities on this particular bill. We had some very interesting comments come back. We have been told that some of the charities are actually seeing increases in their own donations due to the heightened awareness of car recycling.

To quote Pat Jessup, president of Cars 4 Causes, she has said, ''oddly enough,'' car donations are up this month. ''In fact,'' she adds, ''because of the increase in donations, Cars 4 Causes has staffed up to handle the incoming calls.''

They indicated when people look, if they do not qualify for the Cash for Clunkers Program, they are going on to discover the tax advantages of donating a vehicle. Then they are calling them.

This is a short-term stimulus. It is not affecting very important charities. I urge a ''no'' vote.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mrs. MURRAY. Madam President, I raise a point of order that the pending amendment violates section 201 of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

Mr. COBURN. Madam President, I move to waive the applicable section of the Budget Act with respect to my amendment.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—41

Alexander	Cochran	Gregg
Barrasso	Corker	Hatch
Bennett	Cornyn	Hutchison
Bond	Crapo	Inhofe
Brownback	DeMint	Isakson
Bunning	Dorgan	Johanns
Burr	Ensign	Kyl
Carper	Enzi	Lugar
Chambliss	Graham	Martinez
Coburn	Grassley	McCain

McConnell	Roberts	Vitter
Murkowski	Sessions	Webb
Nelson (NE)	Shelby	Wicker
Risch	Thune	

NAYS—56

Akaka	Gillibrand	Nelson (FL)
Baucus	Hagan	Pryor
Bayh	Harkin	Reed
Begich	Inouye	Reid
Bennet	Johnson	Rockefeller
Bingaman	Kaufman	Sanders
Boxer	Kerry	Schumer
Brown	Klobuchar	Shaheen
Burris	Kohl	Snowe
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Voinovich
Durbin	McCaskill	Warner
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Franken	Murray	

NOT VOTING—3

Byrd	Kennedy	Mikulski

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2303

The PRESIDING OFFICER. There will now be 2 minutes equally divided prior to a vote on the Vitter amendment No. 2303.

The Senator from Louisiana.

Mr. VITTER. Mr. President, this amendment is very simple. It simply says the TARP bailout fund will end when we originally said it would end: December 31 of this year. Under the original TARP bill, the Treasury Secretary has the authority to extend it another almost full year, until October of 2010. We would take that authority away. We would retain that responsibility and say we will wind down the TARP bailout fund at the end of this year.

Clearly, the crisis, the imminent collapse of the financial system, has passed and is not before us. If we are serious about the bailout being temporary, being necessary because of truly unusual circumstances, if we are serious about that, we will vote yes on this amendment and end TARP at the end of this year in an orderly way.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, this amendment would terminate the program at the end of this year. While there are certainly very positive signs that the economy is improving, all of us are painfully aware of how much further we have to travel before the economy is truly back on its feet. The foreclosure rate and the unemployment rate are still troubling.

This is not a request for additional money. There is about $170 billion left in the TARP program. It would be premature and unwise for us to terminate a program without knowing yet that we have actually come out of difficult times. I urge colleagues to reject this amendment. What this does is sustain the program beyond December 31 of this year into October of next year. Then, hopefully, we won't need these resources. Hopefully, we won't have to use another nickel of this money. But I don't think we want to come back in February and March and all of a sudden have to restart a program such as this because we haven't achieved all the success we would like in getting our economy back on its feet.

I say respectfully to my friend from Louisiana, I urge colleagues to reject the Vitter amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. VITTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—41

Alexander	Crapo	Martinez
Barrasso	DeMint	McCain
Bayh	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Kyl	Vitter
Corker	Lincoln	Wicker
Cornyn	Lugar	

NAYS—56

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

NOT VOTING—3

Byrd	Kennedy	Mikulski

The amendment (No. 2303) was rejected.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. SCHUMER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2306

Mrs. MURRAY. Mr. President, I believe the final amendment is now in order, the Isakson amendment.

The PRESIDING OFFICER. The Senator is correct. There is 2 minutes of debate divided equally on the amendment.

Who yields time?

The Senator from Georgia.

Mr. ISAKSON. Mr. President, very simply, this is the amendment to help our economy recover. The Senator from Washington, the Senator from Connecticut, the chairman of the Banking Committee, are cosponsors of the main bill. It provides a $15,000 tax credit for the purchase of any home in America during the next 12 months. It will make the difference. It does not do anything to the base bill.

For those who would say we cannot do it because the House is gone, we can do anything if we want to. It is time we address the central core issue to our economy: the housing market.

I urge all my friends to support the Isakson amendment to provide the $15,000 tax credit.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this is another well-intended amendment. It is an amendment, indeed, that many of us have voted for in a slightly different form in a different place. However, it would represent the death knell for this program. So if you believe the Cash for Clunkers Program is a successful program and should be extended, this amendment needs to be defeated and raised at a different point.

We will not get the Isakson amendment into law by adopting it. All we will do is stop the Cash for Clunkers Program from continuing. That seems to me to be the choice, which is a fundamental one. I hope we defeat the Isakson amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I raise a point of order that the pending amendment violates section 201 of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I move to waive the applicable section of the Budget Act with respect to my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The yeas and nays resulted—yeas 47, nays 50, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—47

Alexander	Ensign	McCain
Barrasso	Enzi	McConnell
Bayh	Graham	Menendez
Bennett	Grassley	Murkowski
Bond	Gregg	Nelson (NE)
Brownback	Hatch	Risch
Bunning	Hutchison	Roberts
Burr	Inhofe	Sessions
Chambliss	Isakson	Shelby
Coburn	Johanns	Snowe
Cochran	Klobuchar	Specter
Collins	Kyl	Thune
Conrad	Leahy	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Wicker
Crapo	Martinez	

NAYS—50

Akaka	Feinstein	Nelson (FL)
Baucus	Franken	Pryor
Begich	Gillibrand	Reed
Bennet	Hagan	Reid
Bingaman	Harkin	Rockefeller
Boxer	Inouye	Sanders
Brown	Johnson	Schumer
Burris	Kaufman	Shaheen
Cantwell	Kerry	Stabenow
Cardin	Kohl	Tester
Carper	Landrieu	Udall (CO)
Casey	Lautenberg	Udall (NM)
DeMint	Levin	Warner
Dodd	Lieberman	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Merkley	Wyden
Feingold	Murray	

NOT VOTING—3

Byrd	Kennedy	Mikulski

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, pursuant to section 403(E)1 of the fiscal year 2010 budget resolution, S. Con Res. 13, I raise a point of order against the emergency designation provision contained in the bill.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, for the sake of all of my colleagues, this would kill the CARS program for 160,000 dealers and consumers across the country.

The PRESIDING OFFICER. The point of order is not debatable.

Mrs. MURRAY. Mr. President, I move to waive the applicable section of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The yeas and nays resulted—yeas 60, nays 37, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—60

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Franken	Pryor
Begich	Gillibrand	Reed
Bennet	Hagan	Reid
Bingaman	Harkin	Rockefeller
Bond	Inouye	Sanders
Boxer	Johnson	Schumer
Brown	Kaufman	Shaheen
Brownback	Kerry	Snowe
Burris	Klobuchar	Specter
Cantwell	Kohl	Stabenow
Cardin	Landrieu	Tester
Carper	Lautenberg	Udall (CO)
Casey	Leahy	Udall (NM)
Collins	Levin	Voinovich
Conrad	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden

NAYS—37

Alexander	Enzi	McCaskill
Barrasso	Graham	McConnell
Bennett	Grassley	Murkowski
Bunning	Gregg	Nelson (NE)
Burr	Hatch	Risch
Chambliss	Hutchison	Roberts
Coburn	Inhofe	Sessions
Cochran	Isakson	Shelby
Corker	Johanns	Thune
Cornyn	Kyl	Vitter
Crapo	Lugar	Wicker
DeMint	Martinez	
Ensign	McCain	

NOT VOTING—3

Byrd	Kennedy	Mikulski

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 37. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. VOINOVICH. Mr. President, I rise in support of the passage of the Car, Allowance Rebate System, CARS, commonly referred to as Cash for Clunkers. CARS provides both a direct and indirect economic benefit to the State of Ohio by supporting the manufacturing of automobiles, automotive parts suppliers, and auto dealers, as well as the many businesses that support these companies. This program is providing valuable jobs and much needed revenue—a direct stimulus—to the State. Furthermore, Ohio car buyers responded positively and Ohio has been one of the top recipients under the CARS program. That is why I am asking my colleagues to reject amendments that would prevent the program from operating until September when the House of Representatives is scheduled to reconvene. If the Senate adopts even one amendment, the bill will be on hold until the mid-September. In some instances, if these same amendments were considered as stand-alone legislation or as amendments to other legislation, I may have supported them, but because these amendments hold hostage the continuation of the CARS I will oppose anything that would keep the Senate from transferring these funds.

The Senate's decision to continue funding the cash for clunkers program will allow consumers to purchase new cars, delivering a real economic stimulus to our Sates. As evidenced by the extraordinary response to the program thus far, this is a win-win. It provides much needed jobs and resources to our states and promotes fuel efficient cars to benefit our environment, reducing our dependence on foreign oil. I am thankful the additional $2 billion for this program is being taken from the already-enacted stimulus bill, which I voted against earlier this year. Unfortunately, programs that would provide real stimulus like cash for clunkers and robust highway and infrastructure investments were not part of the original stimulus package. These types of direct tangible investments provide not only jobs through dealers, manufacturers, and auto suppliers, but usable assets for taxpayers. I am hopeful that this program will continue to provide much-needed relief to the Ohio's automotive manufacturers.

Mr. BOND. Mr. President, auto jobs form the backbone of American manufacturing, especially in the Midwest. Millions of Americans, and in my home—state of Missouri more than 200,000 workers, depend on the auto industry for their livelihoods.

Unfortunately all of those jobs were at risk when the big three domestic auto companies almost went completely under.

Recognizing the importance of this industry to our economy and millions of workers, the government acted to protect these auto jobs.

One of those actions was to pass the Cash for Clunkers Program. I supported this program because I thought it would help save thousands of jobs at auto dealers, parts plant, and assembly plants.

Also, this program was designed to help consumers with the cost of more fuel-efficient cars and, ultimately, in the long-term benefit the environment with reduced exhaust emissions.

This is one government program that has actually exceeded everyone's expectation.

Folks in Missouri and across the Nation have been flocking to once rather empty car lots.

In fact, there were tens of thousands of new car purchases made through the program after only a week.

Cash for Clunkers has given a much needed jump-start to dealers and the auto industry that have been suffering with the worst car sales in recent history.

This program has benefitted consumers who would otherwise not be able to afford a new vehicle and has boosted small business dealers in rural and small communities across Missouri and the country.

It is not to say that the program, like most government-run programs, has had an entirely smooth ride. I have heard from Missouri auto dealers who have been frustrated by government redtape, which has stalled some sales and created confusion among dealers and car buyers.

This uncertainty has rightfully caused some heartburn for dealers who are required under the program to provide funding up front for the consumers and then must receive approval from the government before they receive reimbursement. Redtape and delays due to inadequate government resources to administer the program have left many dealers wondering if they will be left holding the bag.

I have been disappointed and dismayed to learn that the Department of Transportation does not know how many commitments have been made and paid for by dealers. Thus, we cannot even be sure that the existing program will have enough money the meet the commitments.

Under the legislation passed by the House, cash for clunkers would be extended and provided an additional $2 billion by using unspent funds from the so-called stimulus bill.

I say so-called because so far it has only stimulated the growth of the deficit and the growth of government employment. Taking $2 billion from that program is the best way to see we get a boost to the economy, now, when we need it.

Fully offsetting additional funding to extend the program is a critical requirement to ensure that we are not adding to the growing Federal deficit.

I am very concerned about potential shell-games being reported in the media about Democratic leadership plans to backfill the stimulus bill in future appropriations.

To be clear, my support for extending cash for clunkers is contingent upon the program not adding to our deficit and that it be temporary, not a bottomless pit for taxpayers.

The purpose of cash for clunkers was to jump-start the auto industry and provide immediate and temporary help to get consumers back on car lots, not to provide a long-term subsidy to the industry and, thus I will not be supporting continued cash for clunkers.

While cash for clunkers has provided a simulative jolt to get people onto car lots again, we cannot hang our hats on this program and expect to have a lasting recovery. I remain concerned about the credit markets, continuing job losses, and the rising likelihood of higher taxes and larger deficits under the spending plans proposed the, administration.

Nevertheless, as a supporter of the initial $1 billion provided to cash for clunkers to jump-start the struggling auto industry, I believe that the program should be extended one last time as long as it is funded with unspent stimulus funds to ensure dealers are not on the hook for the cost of the rebates due to the government's management failures.

This program was meant to jump-start, not subsidize, auto sales, so I support a one-time extension.

Also, it is critical that the Obama administration make sure that bureaucratic hiccups don't turn this program into a nightmare for our dealers and consumers.

The bottom line is that an extension paid for with unused stimulus dollars makes sense this one time since this program seems to have worked better then the misnamed Recovery Act.

Mr. FEINGOLD. Mr. President, I am pleased to support this bill, which will provide additional funding to the popular Consumer Assistance to Recycle and Save or CARS program. While not perfect, CARS has encouraged Americans to trade in their older and less fuel-efficient vehicles while boosting new car sales and helping to revive local economies in Wisconsin and around the country, something that is sorely needed in these difficult economic times.

CARS began almost 2 weeks ago and in that time, interest in CARS has far exceeded most initial expectations for the program. Despite some problems with implementation of the program, it should be temporarily extended to help ensure that Americans who still want to participate in the program can do so, and that deals which have already been made in reliance on the program can go through. At the same time, I hope the Department of Transportation will listen to the concerns from car dealers and consumers and make improvements to help ensure CARS operates more smoothly in the coming weeks.

I am pleased that the Department of Transportation has fixed one problem it created in implementing CARS. When Congress created the CARS program earlier this year, it fully intended to ensure that consumers across the country who are in compliance with the statute's requirements, including provisions related to car insurance, be allowed to participate in the CARS program. The Transportation Department issued a final rule almost 2 weeks ago that set the guidelines for the CARS program. This rule included a requirement that individuals who wanted to trade in their vehicles had to demonstrate proof of car insurance for at least one year prior to the trade-in, a provision that conflicted with statutory language stating that a trade-in vehicle be ''continuously insured consistent with the applicable State law.'' Currently, Wisconsin and New Hampshire do not require individuals to purchase car insurance and it was estimated that Transportation's rule would have affected up to 15 percent of Wisconsin drivers who legally did not have car insurance, but were in full compliance with Wisconsin State laws.

I wrote to the Department of Transportation and spoke with Secretary LaHood to urge the Department to correct its misinterpretation of the CARS statutory language. I am pleased to have been joined in the effort by members of the Wisconsin and New Hampshire delegations as well as some of the lead authors of the Cash for Clunkers program including Senator STABENOW and Representative DINGELL. The Department listened to our concerns and, last week, it announced that it had reexamined the statutory language of CARS and concluded that the initial rule it had issued unfairly penalized Wisconsin drivers who were in compliance with Wisconsin law. The Transportation Department further announced that trade-in vehicles in Wisconsin would be exempt from the 1-year insurance requirement thereby ensuring that Wisconsinites who meet the law's other eligibility requirements can participate in the CARS program. While all Wisconsin drivers will be required to have car insurance beginning in June 2010, this action by the Transportation Department is a sensible fix for Wisconsinites who are in compliance with state law and who seek to participate in this temporary program.

Even with a number of Wisconsinites erroneously excluded from the program initially and some technical difficulties, as of August 5, several thousand Wisconsinites had participated in the program and dealers are expected to receive reimbursements for over $24 million that they have credited to Wisconsinites buying new cars under this program. On a per capita basis, this level of requested vouchers places Wisconsin fifth amongst all the States. Demand for the program remains strong in Wisconsin and across the country and will soon completely outstrip the supply of vouchers currently available, which is why we need to act to provide additional funding.

Mr. INOUYE. Mr. President, I wish today to support providing an additional $2 billion to allow for the extension of the car allowance rebate system, CARS, otherwise known as cash for clunkers.

During the original debate on the cash for clunkers concept in the Appropriations Committee, proponents of the program promised that it would have two major benefits. The first was that it would replace older, less fuel-efficient cars with new models that are more fuel-efficient, thus helping the environment and decreasing our dependence on imported oil. The second was that it would provide a much needed boost to plummeting auto sales in the United States.

The good news is that we now have hard data we can use to evaluate

whether the program has lived up to its proponent's promises. And the very good news is that clearly, it has. In fact, the program has exceeded expectations.

Based on approximately 184,000 dealer transactions that have so far been recorded by the National Highway Traffic Safety Administration, NHTSA, we know the following:

CARS transactions are generating a 60-percent increase in vehicle fuel economy. The average of the vehicles being turned in have a fuel economy rating of 15.8 miles per gallon, while the average of the vehicles being sold have a fuel economy rating of 25.3 miles per gallon. This means the average CARS transaction is leading to an increase in fuel efficiency of 9.5 miles per gallon. I think we can all agree that is a very significant improvement. How significant? The savings in gas purchases alone are estimated to be $700 a year for the typical consumer. Clearly, the CARS program has lived up to its promise to put more fuel-efficient cars on the road.

As for the second promise—that this program would provide a much needed boost to automobile sales in the U.S.—the Washington Post reported the following on August 4: ''U.S. auto sales rose to their highest levels of the year in July as consumers rushed to trade in older vehicles under a government incentive program that has become so popular it is in danger of running out of money. Automakers issued their sales reports Monday, raising hope that the sagging auto industry is headed for a recovery, although some analysts cautioned that a turnaround would still be slow. Ford said its sales were up 2.4 percent over the same period a year ago, its first monthly increase in two years. The automaker attributed much of the gain to the Cash for Clunkers program, which allows consumers to receive rebates for turning in older cars for more fuel-efficient models.''

There can be no doubt that the CARS program is succeeding beyond expectations. In fact, the program has been such a hit with the American people that it has run out of funding much sooner than anticipated. The President has proposed, the House has passed, and I fully support, the reprogramming of $2 billion in Recovery Act funding to enable the extension of the CARS program.

With this extension, we can continue to put more fuel-efficient automobiles on the road, which reduces pollution and our reliance on imported oil, and we can continue to provide a much needed boost to the auto industry, which helps the broader economy and saves jobs. At a time when our economy is in need of a jump-start, cash for clunkers is an undeniable success. I urge my colleagues to join me in providing the additional funding needed to continue this worthy program.

Mr. LEAHY. Mr. President, I would like to make some observations about the Consumer Assistance to Recycle and Save Program, more commonly known as cash for clunkers.

When Congress first passed this program in June, I evaluated the merits and the arguments and chose to support it, because I believed it would provide a prompt shot in the arm to our ailing economy. I continue to believe that the program's goals of reducing the environmental impact of automobiles on the road and producing economic stimulus are good ones.

However as we debate whether to infuse this program with another $2 billion I would urge that we be patient and wait until all the facts are in, before rushing forward with a tripling of the program's overall cost. Significant claims have been made about the average increased fuel economy and resulting financial savings that will result from car purchases made through the program. The administration has used these claims to push for the program's expansion, yet Federal agencies have not yet made available—to the American people and to the Congress—the appropriate data to support these claims.

If you have picked up a newspaper in the past few weeks, the sudden popularity of the program is clear. Newspaper headlines have consistently noted the program is rapidly running out of money and that car purchases are well above where they were at this time last year. In my own State of Vermont, car dealers have reported having difficulty keeping up with demand for new cars that meet the program's requirements. But while we know that cars are moving off sales lots and onto the road, we have yet to receive enough details about the current sales data to know the true story of whether this program is working as intended.

Recent reports on the program have indicated that funding was about to run out, yet the number of actual car sales through the program was far lower than the program allowed for. Further, many dealers have noted that hundreds of thousands of dollars in program vouchers from the government have yet to be paid. If this is in fact the case, we should demand that the management of this program be ironed out before pumping billions more into it. Are we sure that this the best way to spend $2 billion right now, if it is to be spent? There are many worthy and pressing purposes to which such significant sums could be allocated.

Positive indications about the direction of the economy are emerging. Today we learned that the number of Americans filing for unemployment dropped to its lowest level since January. The Cash for Clunkers Program may prove to be a factor in helping our country emerge from this recession, and I certainly hope that is the case.

But the public release of information about this car rebate program is necessary to ensure that both the Congress and the American people can make well-informed judgments about the merits of continuing this program in these economically challenging times. If the administration is unwilling or unable to provide this information before the Senate votes on additional funding, I will be unable to support the program's expansion.

The PRESIDING OFFICER. The question is on passage of H.R. 3435.

The majority leader is recognized.

Mr. REID. Mr. President, we have one more vote. I appreciate everyone's cooperation. We have accomplished a great deal this whole work period. This week has really been a productive one. I appreciate everyone's help. The Republican leader and I have worked hard to get it to this point on Thursday night at 8 o'clock. That is hard to comprehend.

We will come back after the break and have a vote Tuesday evening. We will keep people posted as to what is going to happen. We are going to move to appropriations bills as quickly as we can, and we have other things to do throughout the work period. I hope everybody has a great work period at home.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I wish everybody well during August while visiting your constituents, and I look forward to being back here after Labor Day.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I thank all of my colleagues for their support. I also thank Senator REID for his amazing leadership and hard work. We wish everyone a wonderful and safe August. Thank you so much for allowing an important stimulus to continue throughout the month of August. We appreciate it.

The PRESIDING OFFICER. The senior Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank everyone for keeping this successful program going. Have a great August.

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

The bill (H.R. 3435) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—60

Akaka	Dorgan	Merkley
Alexander	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Pryor
Begich	Franken	Reed
Bennet	Gillibrand	Reid
Bingaman	Hagan	Rockefeller
Bond	Harkin	Sanders
Boxer	Inouye	Schumer
Brown	Johnson	Shaheen
Brownback	Kaufman	Snowe
Burris	Kerry	Specter
Cantwell	Klobuchar	Stabenow
Cardin	Kohl	Tester
Carper	Landrieu	Udall (CO)
Casey	Lautenberg	Udall (NM)
Collins	Levin	Voinovich
Conrad	Lieberman	Webb
Corker	Lincoln	Whitehouse
Dodd	Menendez	Wyden

NAYS—37

Barrasso	Grassley	McConnell
Bennett	Gregg	Murkowski
Bunning	Hatch	Nelson (NE)
Burr	Hutchison	Risch
Chambliss	Inhofe	Roberts
Coburn	Isakson	Sessions
Cochran	Johanns	Shelby
Cornyn	Kyl	Thune
Crapo	Leahy	Vitter
DeMint	Lugar	Warner
Ensign	Martinez	Wicker
Enzi	McCain	
Graham	McCaskill	

NOT VOTING—3

Byrd	Kennedy	Mikulski

The bill (H.R. 3435) was passed.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Ms. STABENOW. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. What is the status, Mr. President?

MORNING BUSINESS

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

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

The Senator from Georgia.

TRIBUTE TO FRANK NORTON

Mr. CHAMBLISS. Mr. President, I rise, along with my colleague from Georgia, to commemorate the life of a good man and a great American, Frank Norton.

Frank's years of service to this country ended recently with his untimely death. But it is fitting we remember Frank on the Senate floor, a place where he served this body, as well as service to our country in years prior to that.

Frank died a resident of St. Simons Island, GA, a place he called home, even though he was a native of nearby Waycross, GA.

Frank graduated from Emory University in 1966, and it was his intention to go to law school. Unfortunately, the Army intervened. He was drafted, wound up going to Officer Candidate School, and not long after that became an Army Ranger instructor. He then headed to Vietnam. While he was in Vietnam, he served in one of the most dangerous jobs in the Army, which was a Ranger reconnaissance platoon leader. For his service and bravery, Frank earned some nine medals, including the Purple Heart and three Bronze Stars for Valor in combat.

Frank went on to serve in assignments at Fort Benning and Fort Stewart, GA, as well as in Korea and Germany. But it is his congressional assignments that some of my colleagues will remember him for. He came to head the Army liaison office in both the House and the Senate.

At the time of his retirement in 1993 as a colonel, Frank was the principal Deputy to the Secretary of the Army for U.S. Senate Liaison. He was the only Army officer to serve in that position in both the House and the Senate.

But Frank's service to country did not end there. In 1993, my predecessor, Senator Sam Nunn, appointed Frank to serve as a staffer on the Senate Armed Services Committee. This was a point in time when this Nation had to go through its first major base closure and realignment process. Frank headed up that process from an Armed Services Committee standpoint and did an outstanding job.

After a later career in government relations, Frank devoted his time to his family farm, to charities, and to community service in Waycross, Brunswick, and St. Simons. Frank loved art, the symphony, and classical music, which is hard to believe for a guy who was as robust and personal and such a great retired Army colonel as Frank was.

His lovely wife Carol and his young son Lee are going to miss him. Certainly, I am going to miss him. We honor him tonight.

I yield for my colleague from Georgia, Senator ISAKSON.

Mr. ISAKSON. Mr. President, I am honored to rise with Senator CHAMBLISS to pay tribute to a great Georgian and a great friend to the United States of America and a great veteran of the U.S. Army.

COL Frank Norton was quite an extraordinary man. As Senator CHAMBLISS mentioned, upon graduation he went to Vietnam, and in Vietnam he took one of the most dangerous missions of all and did it superbly. He was decorated nine times. He returned here and throughout his career served in the Congress, the Senate, and served the people of the United States in many ways.

Frank Norton is a very unique individual. When he left military service and left service to the House and Senate liaison committees, he formed a partnership with his old friend Bob Hurt from Georgia. They formed a firm called Hurt and Norton, and they were quite a team; always jovial, always hard working, always on target, always delivering for their clients, and their clients were always the State of Georgia.

Our biggest economic asset in Georgia is our port of Savannah, and they represented the port. Our coastline is one of the most valuable areas of Georgia, and they represented our coastline. And most importantly of all, in the critical days of Fort Stewart, they represented Fort Stewart and the Hinesville community to see to it that the needs of our soldiers were met and the needs of the city of Hinesville, which hosted the soldiers, were met as well.

Frank died on the tennis court with his young son Lee. Tonight I send my regrets to his wife Carol, to Lee, and to all his family. But I also send my praise, my praise for a great Georgian, a great American, who sacrificed in so many ways for this country. May he now rest in peace looking down on all of us from heaven.

I yield back my time.

The PRESIDING OFFICER. The Senator from Delaware.

SIGNING AUTHORITY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the majority leader be authorized to sign any duly enrolled bills and joint resolutions through Friday, August 7, 2009.

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

IN PRAISE OF PEARLIE S. REED

Mr. KAUFMAN. Mr. President, I rise once again to speak about one of our great Federal employees. Whenever I enter this Chamber, I cannot help but admire the inspirational works of art that adorn it. Above the main entrances rest marble reliefs depicting the three virtues of Courage, Wisdom, and Patriotism.

Our Federal employees embody all three of these qualities, though my focus today will be on patriotism. The marble relief representing patriotism, which sits atop the lintel of the door to my right, shows a man setting aside his plow to take up the sword. This image recalls the parallel stories of Lucius Cincinnatus and George Washington, two farmer citizens who set aside their daily work in order to defend the people's liberty.

In the history of democracy, the sword and plow have come to symbolize this dichotomy. Traditionally, the sword features most prominently as the metaphor for patriotism. However, I would argue that the plow is just as much a symbol of patriotism as the sword. The plow represents a citizen's daily contribution to society over the course of many years. The highlight of the Cincinnatus story, from which our revolutionary forebears drew inspiration, is that he returned without fanfare to his plow when the war was finished.

The great statesman Adlai Stevenson once said:

Patriotism is not short, frenzied outbursts of emotion, but the tranquil and steady dedication of a lifetime.

I think it is fitting to speak about patriotism as symbolized by a plow, because the Federal employee I wish to recognize this week has worked in the Department of Agriculture for over 35 years. Pearlie Reed was raised on a farm in the rural town of Heth, AR, where he was the ninth of eighteen children. He worked hard to attend the State University of Pine Bluff, which was especially challenging for an African-American man in the South during the struggles of the Civil Rights movement.

Nonetheless, Pearlie received his degree, and he joined the USDA in 1968 as a student intern for the Soil Conservation Service. In the years that followed, Pearlie rose steadily in the Soil Conservation Service from an entry-level soil conservator to district conservationist, to deputy state conservationist, and he was eventually appointed as the state conservationist for Maryland in 1985. He served in that position for 4 years, after which he became the state conservationist for California.

As his career advanced, Pearlie also received a master's degree in public administration from American University. The Soil and Conservation Service was eventually transformed into the Natural Resources Conservation Service or NRCS. From 1994 to 1998, Pearlie served as associate chief, and his last year on the job also served as Acting Assistant Secretary of Agriculture for Administration.

In 1998, Pearlie was promoted to chief of the NRCS, and he held the position until 2002 when he was named Regional Conservationist for the Western United States. In that role, Pearlie was in charge of all natural resource conservation efforts by the Federal Government in 10 States and the Pacific Basin area.

Pearlie has said that one of his proudest moments in his career came when he was asked to lead the Agriculture Department's task force on civil rights in the 1990s. He led a team that issued a report containing 37 recommendations on how to ensure that the Department is a welcoming place for minorities. Pearlie briefed President Clinton personally, and the President issued an order that all 37 of his recommendations be implemented.

Pearlie retired from the USDA in 2003, but just this year Secretary Vilsack called him out of retirement and asked President Obama to appoint him as Assistant Secretary of Administration, the position he briefly held in an acting capacity 10 years ago. Pearlie was confirmed by the Senate on May 12, and he is now back at work for the farmers and ranchers of America.

One of his former colleagues said once that:

If you look up the term ''public service'' in the dictionary, you'd likely see a picture of Pearlie Reed right next to it.

Over the course of his long career, Pearlie has received the Distinguished Presidential Rank Award, the George Washington Carver Public Service Hall of Fame Award, and the USDA's Civil Plow Honor Award, among others.

Pearlie exemplifies the kind of patriotism Stevenson spoke about—the patriotism of steady work and perseverance represented by Cincinnatus's plow.

I hope my colleagues will join me in honoring Pearlie Reed's distinguished service and that of all Federal employees working in agricultural development, resource conservation, and rural advancement.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

HEALTH CARE REFORM

Mr. DODD. Mr. President, I want to speak, if I can, for a few minutes this evening on the health care bill. I suppose today or tomorrow will be the last time before we return in September to address the issue of health care reform, and I thought it might be worthwhile this evening—in the waning hours—to give our colleagues and others who are interested an idea of where we are in this debate and what options have been proposed.

As many have heard us say already, the committee for which I have been hired as sort of a pinch-hitter for Senator KENNEDY—the Health, Education, Labor and Pensions Committee, on which I am proud to serve—and I must say once again, with deep regret, that the chairman, Senator TED KENNEDY from Massachusetts, has not been able to be with us over the last number of weeks. I will tell you this. He is watching very carefully every meeting and markup and gathering that occurs, because he has invested so much of his public life and career to trying to reform the health care system of our Nation. So I was asked to step in for him, temporarily, until he gets back on his feet and can join us in this effort.

We have spent a long time over the last number of weeks and months on this debate. We have spent a tremendous amount of time in the committee, even a lot of time before the actual markup in preparing for the legislation. So this evening I wish to talk about sort of where we are with that bill, what is in that bill in very practical terms, and how it would affect individuals.

I also want to give my colleagues some opportunity to appreciate what will happen while we are away for 5 weeks in terms of those who will lose their insurance, as they will, between now and September. I have made the point over and over again that 14,000 people a day in our Nation lose health care coverage. Those are terrible numbers. They are more significant in some States than in others, but there is that erosion of coverage every day.

As long as nothing happens, as long as no health care crisis affects them or their families, they may be able to survive all of that until they find a job or find some other means by which they can afford health care coverage. If, unfortunately, they are caught—as so many are—with that unexpected accident, that unexpected health care crisis, that unexpected diagnosis of a major health care problem while they are in that period without coverage, the implications can be staggering, and not just because they lack the coverage that might allow them to take care of that emergency accident or injury. But if they are diagnosed with something in the absence of a health care plan, under the present circumstances, there is very little likelihood that they are going to be able to get a health care plan that will be within their means to afford it because they will have that preexisting condition once the diagnosis occurs. So the health care costs go right up through the ceiling.

So again, 14,000 a day, as we gather here, find themselves in that shape. I thought it might be worthwhile to get graphic about this, because by the end of the August recess, when we return, 756,000 of our fellow citizens will have lost their health insurance—while we are away over the next 4 or 5 weeks—and that is a staggering number.

Some may find a means to get it back. Some may have a spouse who gets a job that provides coverage. But those are the numbers if you take every day the loss of health care coverage.

My patient here, with these numbers, you can see the thermometer is now exploding. He is even having some beads of perspiration here because he is now worried that he or his family could be caught in that free fall, without the means to protect themselves against economic ruin. It could happen.

So as we begin a short discussion this evening of where we are, I thought it might be important to share with my colleagues that while we leave with the full confidence of a very good health care plan as Members of Congress, that should an accident, a diagnosis, a problem occur to any one of us—while we don't want that to happen—there is no likelihood we are going to be put in economic difficulty because of it. Certainly we will probably get good care because of who we are, what we do, but no worry about the sort of economic ruin that this crowd of 756,000 Americans may face if they are caught in a similar situation.

I have hope that all my colleagues have a good recess, that they will get around their States and districts. I also hope they will get an annual physical this year, as I hope everyone does. We provide an opportunity, under our health care plan, to do that at little or no cost. That is how I discovered earlier this summer, in June, that I have early stage prostate cancer, and I will

be going through a procedure in the next few weeks to deal with that matter, and I am confident, since I caught it in this early stage, that I will come out fine. I have had a chance to talk to people who have gone through this or had a family member and I know about the various options that are available. It is early stage. It hasn't metastasized. I am not going to be in tough shape. I believe I am going to come out of this fine. But that is what you get when you get an annual physical. You find out these things.

There are people who, of course, don't do that. We even have had colleagues who didn't. A wonderful man I served with in this body for many years by the name of Spark Matsunaga from Hawaii did not discover it early enough, and he lost his life to prostate cancer. Almost 30,000 people in our country die every year of prostate cancer. In many instances, if not most, it is because it wasn't diagnosed early enough. It is very slow growing. There is ample time to respond to it, but you need to find out about it.

So when you get that physical, and I hope each of my colleagues remembers that if they do that and they find out they have a health issue, or if something happens in an accident to them, or if anybody in their family suffers a health crisis, they will be able to focus their attention on getting well because there is absolutely no risk that any Member of the Congress, or the millions of Federal employees who have the options—more than 20 of them each year, by the way—to choose what plan serves us best—no risk they will lose their economic security because they got sick or they had a bad diagnosis or they got hurt. Because as I said a moment ago, we all have great health insurance and we are not going to lose it any time soon.

But tens of millions of Americans have insurance that does not allow them to get the care they need. It is not just the uninsured; it is people with insurance I want to focus on this evening—people who have insurance when they need it, with the doctor of their choice, and while we are gone, nearly half a million of them will lose that coverage.

I understand we are all going to be patient on this effort of health care reform. It takes time to get it right. I acknowledge that. But 70 years is long enough. That is how long we have gone in our Nation without addressing in a holistic way the health care issues that must be addressed.

By the time we return from our recess, the number of Americans, I pointed out, who will have lost health insurance since our committee, the Health, Education, Labor, and Pensions Committee, passed the Affordable Health Choices Act more than 3 weeks ago, will be over three-quarters of a million people.

While a bill that will improve the quality and affordability of health care for every American sits waiting for action, as I said, 756,000 of our fellow citizens are going to lose that insurance before we come back from our recess.

Let me take a moment and show my colleagues what that means in their States. I have broken this down State by State so you get some idea of what the implications are because sometimes these numbers can be daunting. It may be hard for people to see this, but I have broken it down. I will run it down very quickly.

Alabama, 5,760 people will lose their health insurance over the next 5 weeks; Alaska, 640; Arizona, 8,960; Arkansas, 2,560; California, 70,080 people will lose their health care coverage before we reconvene in early September; Colorado, 3,200.

I know the Presiding Officer has been working hard on this issue. I commend him for this effort. I know he will be meeting with a lot of his constituents. In fact, Colorado and Connecticut lose the same number of people, 3,200 as well.

In Delaware, 960; in Florida, 27,200; Georgia, 13,760; Hawaii, 1,600; Idaho, 2,240; Illinois, 8,640; Indiana, 15,360 will lose health care coverage; Iowa, 2,240; Kansas, about the same number. In Kentucky it is 7,360; Louisiana, 5,760; Maine, 2,240 lose health care coverage; in Maryland, 7,360; Massachusetts, over 13,000 people, close to 14,000 people will lose health care coverage over the next 5 weeks; Michigan, 19,840; Minnesota, 6,080; Mississippi, 4,160; Missouri, 6,720; Montana, 960 people; Nebraska, 1,280; Nevada, over 7,000 people will lose health care coverage; New Hampshire, 960; New Jersey, 20,800 people will lose health care coverage; New Mexico, 2,560; New York, 38,080 people will be dropped from the health care rolls; North Carolina, over 16,000; North Dakota, 320; Ohio, 12,480; Oklahoma, 1,600; Oregon, 8,640; Pennsylvania, 16,320 people; Rhode Island—our colleague, SHELDON WHITEHOUSE is here from Rhode Island. He was such a valuable resource in our HELP Committee over the last number of weeks, and I commend him for his contribution, he and JACK REED both making significant contributions to our Affordable Health Choices Act. South Carolina, over 10,000 people will lose their health care coverage, South Dakota, 960; Tennessee, 12,800; Texas, 15,040; Utah, 3,840; Vermont, 960; Virginia, 10,560 people; in West Virginia, 960; Wisconsin, 7,360; Wyoming, 320.

I apologize for taking that time but sometimes you mention 14,000 and we don't break it down State by State. These are the projected losses in terms of health care coverage. They will not have the same degree of security that we do during the next 5 weeks.

When we leave here, I, of course, hope none of us suffer any kind of a diagnosis or any kind of an accident, but as I said a moment ago, as painful as that may be, none of us will suffer the pain of wondering whether you can afford to have your child covered, your spouse covered, or have the means to take care of yourself if something happens.

The people in these numbers, hopefully, will never have that problem, but if they do it is a major catastrophe. Roughly 65 percent of all bankruptcies in the last year have been caused because of a medical crisis—about 65 percent of all bankruptcies. Your first thought might be, as mine was, that is probably the uninsured who ended up in that shape. They didn't have insurance, they ended up with a serious problem and got drained of whatever few assets they had left and took the bankruptcy act to get out of trouble.

Mr. President, 75 percent of the people who were affected by bankruptcy as a result of the health care crisis have insurance; three out of four people who have insurance had ended up in bankruptcy. It was not the uninsured, it was the insured.

This evening—I know they are always out there marketing this idea that this bill we are talking about is not designed to help the insured, only the uninsured. Nothing could be further from the truth. Our major efforts are to try to bring down the costs of the insured. Many have such high deductibles and out-of-pocket deductibles they never get to engage their insurance policies.

At any rate, these are the numbers. I think it is important for my colleagues to look at it.

To my colleagues, think about constituents you are going to see over the recess facing these problems. Imagine a small business owner paying $1,000 a month on premiums with a $6,000 deductible. It is not an uncommon event for small businesses. Imagine this small businessman telling you that his insurance company dropped his daughter's coverage when their doctor suggested surgery to remove noncancerous tumors, forcing him to get a separate, more expensive policy for her.

It doesn't have to be this way. These facts happen all the time. Under our bill, under the bill we passed 3 weeks ago, this small business owner would be able to choose an affordable plan that he or she could rely on, wouldn't be denied coverage for the preexisting condition of their daughter, and that coverage would not be taken away once the policy is issued. That is the difference between the status quo, as it is today, and what we propose in our legislation we spent so much time crafting.

Imagine, if you would, a small business owner who offers health coverage to his 20 employees. He is paying about 60 percent of the cost of the premiums but unable to afford family coverage. Imagine that small business owner telling you that one of his employees have left for a job that provides family coverage.

It doesn't have to happen. In fact, this case is one I am very familiar with. This was the case of a small employer in Hartford, CT, who employs not 20 people but about 10, and very loyal employees. I think most of them have been there 20 years. He had an

employee the other day literally almost in tears, if not in tears, announcing to his employer that he had to leave because his wife, who had the health care coverage, lost her job. So they were without health insurance.

He then went and took a job that paid 30 percent less than the job he had for more than 20 years in order to get the coverage. That would not happen under our bill. That does not have to happen. That family, if you will, small business, would be able to find affordable coverage for their employees using the same strong bargaining power and broad risk pooling that large businesses enjoy.

This is one of the major problems for small business. The average small business pays 18 percent more in premiums than large businesses—18 percent more—and they get a lot less coverage as a result of it because they don't have the opportunity to pool as much, come together. Our bill gives that small businessperson the same access, the same opportunity to that gateway, that place where these policies exist that they can shop for and determine what is best for them—what they can afford and what they want to have for their employees. That does not exist today. Unless we change the law, that small business operator is going to be faced with rising premium costs and less and less coverage for their employees. We change that. We fix that. That is important for people, I think.

Let me mention a third scenario. Imagine a single mother, self-employed, paying more than she can comfortably afford for an insurance plan—not uncommon—that has high copays and a high deductible, not uncommon at all. Imagine her telling you she rarely sees a doctor for preventive screenings for herself or well-child visits for her son because her plan doesn't cover those visits.

It doesn't have to be that way. Under our proposal this single mother would be able to find a plan that she can afford that covers important preventive care items at little or no cost. Our bill provides preventive screenings like mammograms or annual physicals at little or no cost. That is in the affordable health choices bill. That idea of making sure she is going to be OK, that her child is getting those vaccinations and so forth that they need—that is covered by our proposal.

Our bill would ban discriminatory pricing based on gender because that ban does not exist today. There can be a huge differential. If you are a woman getting health care coverage, you often pay a lot more than men do. Our bill eliminates insurance rating based on gender entirely. Men and women are treated equally going in, in terms of their health care coverage. If we do not change the law, those policies do not change. The inequity goes on.

Mary, in this case, wouldn't have to pay more than others her age in her area would, rather than just paying more because of gender.

Finally, imagine a woman who bought the best coverage she could afford based on monthly premiums because she knew going without insurance was a bad idea. Imagine her telling you she was just diagnosed with breast cancer at the age of 25, and only then realized her policy was inadequate. Imagine her telling you she now has more than $40,000 in medical debt.

Under our bill, this young woman would be able to stay under her parents' coverage through her 26th birthday, what we call the young invincibles, between the age of 21, when you are dropped from your parents coverage, and you are on your own. That is a very significant percentage of our population. A lot can happen. This woman was diagnosed with breast cancer late. But had she been in the same circumstances physically, with the adoption of our legislation she would have qualified for that young adults coverage, which is very reasonable in cost, or stay under her parents' plan until she was 26 and never have to worry about being denied because of a preexisting condition, which of course now she has. Having been diagnosed with breast cancer, those premiums for that woman will go through the ceiling, even as young as she is, because she has that preexisting condition.

We asked our colleagues to imagine these cases because they are so incredibly common. These are not extraordinary cases. They are rather routine in many cases. We will see people in these situations—I know my colleagues will, during the break we are on, real people who can suffer by our inaction.

Let me take a minute, if I can, to talk about what health reform means in my State of Connecticut as well. In the last month, an insurance company in my State proposed to raise rates by 32 percent on people buying insurance in the individual market. This news was shocking, given the debate going on at the Federal level, but the company went ahead with the proposed rate hike for Connecticut families. Today I received word that the Connecticut Insurance Department went ahead and approved a modification to the company's proposal that will raise the premiums for the residents of my State by up to 20 percent—a 20-percent increase.

I don't know many people in Connecticut who got a 20-percent pay raise in the last year. I suspect very few. People are going to struggle because of the rate hike. People are going to struggle across the Nation, of course, until we take action because the rates continue to go up.

Consider, if you will, what has happened in the last few years: an 86-percent increase in premiums, in rates since 1996. In my State they have gone up about 46 percent in 6 years, and that was before the news of this latest company increase.

We have a bill—again, that would reduce the cost for Americans, the Affordable Health Choices Act, which we adopted in our committee, which in fact addresses this very issue. I want to encourage all my colleagues to spend a little time looking at the bill we wrote over this August break.

I will take just a minute this evening to talk about how costs would be lowered under our proposal. Many ask the question: How do you lower costs? I will use my own State as an example.

According to America's Health Insurance Plans, which is the trade association for the health insurance industry, in Connecticut in 2007, the average monthly premium on the individual market for single coverage was $277 and the average monthly premium on the individual market for family coverage was $646.

I ask unanimous consent to be able to proceed for an additional 10 minutes.

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

Mr. DODD. Those are the numbers: monthly payment, individual market, $277; family premiums, family market, $646. Keep those numbers in mind, if you will. These numbers were for 2007. I presume in 2009 they have gone up a bit, but those are the latest numbers I could find from this trade association. They reflect what an individual making about $21,000, on average, paid in 2007. That is a lower income individual, but there are a lot of people who have incomes at that level working in our country. You try to pick up the cost of $277, or $646 a month with an income like that. You know the outcome. You are not going to be able to afford it. You could not come near it.

Under our legislation, a low-income worker at $21,000 would now pay $20 a month in health care premiums for individuals.

That is $277 a month under the status quo, $20 a month under the Affordable Health Choice Act—from $277 to $20. That person now—even at $21,000, that $20 a month becomes very affordable health care. That is a person who would now be able to shop for a plan in the insurance gateway and could have options in choosing health care to allow them to stay out the hospital, stay healthier, be able to keep working, take care of their family. That is the difference. That is the real difference.

For family coverage, a family of four who makes two times the Federal poverty level—approximately $44,000 a year—pays $646 each month for family coverage, as I mentioned earlier in my statement. Under our bill, that family would now pay $40 a month for their health care premiums; that is $646 under the status quo, $40 a month under the Affordable Health Choices Act.

When people say it does not make any difference, you are not bringing down costs, you tell that to that individual making around $21,000 a year or that family making $45,000 a year. That is a significant reduction in their health care premiums. That is the real

difference between the status quo and what our legislation offers. That is affordable coverage.

What is not captured in the numbers under the status quo is the fact that that family in Connecticut has no guarantee they will even be offered a policy. For that matter, they have no guarantee, if they are issued the policy, they will not see it cancelled or rescinded because they file a claim. And they have no guarantee that policy will be renewed the following year. Our bill changes all of that. Connecticut families and families across the country can at long last be assured they will be able to choose among quality, affordable health care plans.

Before my colleagues depart, let me say this: Let's come back to work here in September, come back ready to offer our thoughts and suggestions and constructive criticism. We are going to pass a bill this fall, and we are going to do it with the help of any Senator willing to contribute and be a part of the solution. But we are not going to continue to wait for the sake of waiting until the politics get right.

Between adjournment tonight and when we return around September 5 or 6, there are 756,000 people who will fall into the category of the uninsured. These are insured people. We ought to be doing everything we can reasonably and thoughtfully to put the brakes on this kind of hemorrhaging that is occurring in our country. It is bad for individuals and their families, and it is bad for the economy of our Nation. It is shameful that the wealthiest Nation on the face of this Earth takes the insured population of our Nation and puts them at such risk, and their families, wiping them out, as happens too often with financial ruin.

We have coverage. We are fortunate to have it. We ought to be able to do everything in our power to see to it that every American, regardless of their economic status, ought not to play roulette with their future and that of their families because they lack the economic security that others who are more fortunate financially have. That is not right. Health care ought not to be a choice only for those who can afford it, decent health care by the accident of birth. That you are born into a family who lacks the economic means should not place your child in a different situation than mine or someone else's because of those circumstances. That is not America. That is not America in the 21st century. We ought to be able to do better than that.

The demagogues out there, chirping away about government-run health care or socialized medicine—that is baloney from top to bottom, and they ought to be ashamed of themselves. In a nation as strong as we are, we place this many insured people at risk because we do not have the courage to stand up and do what needs to be done.

In our proposal we have crafted, we spent a lot of time working at it to provide relief and support on wellness and prevention and quality of care and to bring those costs down to the point I have described here this evening. Again, there may be other ideas and other ways of doing this. We think we have done a good job with our bill. But I wanted people across the country to know there are ideas out there.

There were 23 of us who worked on that bill. We spent 5 weeks, 60 hours, 23 sessions—the longest markup of a bill in the history of that committee and, we are told by some, maybe the longest markup in the history of the Senate on a single bill. We had 800 amendments filed, and 300 were actually considered. Some 160 amendments of my friends on the Republican side were agreed to and included in our bill, making it a better bill and a stronger bill. I welcomed their participation. But here we are, 3 weeks later, still stymied, unable to come together and shape a bill that would provide the relief so many people seek in our country.

I thank my colleagues for their efforts, particularly grateful to Senator HARKIN, who did a terrific job on the prevention parts of our bill; Senator MIKULSKI, who wrote the quality provisions; Senator JEFF BINGAMAN, who worked on coverage issues; Senator PATTY MURRAY, who worked on the workforce issues in the bill; and people such as Senator SHELDON WHITEHOUSE of Rhode Island, who joined our committee and did a fabulous job with KAY HAGAN, our new colleague from North Carolina, along with SHERROD BROWN of Ohio, to shape the public option that is included in our bill, which I am certain my friend from Rhode Island may describe in some detail this evening about what we have done. This was so creative that the Blue Dogs on the House side adopted our proposal on the public option as part of the House-passed bill. Of course, JACK REED and BERNIE SANDERS, as well as JEFF MERKLEY on our committee and BOB CASEY did a great job in helping us shape the legislation. I thank all of the members of the committee.

I thank MIKE ENZI, my colleague from Wyoming, the ranking Republican member, along with his colleagues on the Republican side. They did not vote for the bill in the end. I regret that. But they made contributions that made it a stronger and better bill.

But let's come back in September and get the job done. That is why we are here this evening in the closing hours of our session here before this break begins, so that we can highlight this most important issue that the President has committed his administration to, and that I believe the overwhelmingly majority of Americans—when you get sick at home and your child is in trouble, you do not wake up and wonder what party you belong to or what your political leanings are; what you want to know is, Do we have a plan that covers this? Is someone going to see my child or my spouse? Are they going to get good care? Am I not going to go into economic ruin from this? You do not wonder whether you are in a blue State or red State or what political party is in power. What you want to know is, Does anybody give a darn, and are they doing anything about it? I am in trouble, my family is in trouble, and are you helping us out to get us back on our feet? And that is what we tried to do in this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Let me thank Chairman DODD for his leadership and for his remarks. He said he would give us a discussion of where we are, and he has done a wonderful job of showing how this bill will improve the lives of regular Americans in a very concrete way, including particularly Americans who have insurance.

To supplement his discussion of where we are, I wanted to give a quick discussion of where we have been because the trajectory of where we have been to where we are tells us something about where we are going. And everybody in this country, insured or uninsured, should have some real concern about where we are going in health care in this country if we do not act.

The year I was born was 1955, and this was the headline from the New York Times in 1955. It is hard to read the little part here; I will read it to you. It says:

> The Problem of Cost. Millions of Americans cannot afford to pay the costs of medical care, and they are not protected by adequate health insurance.

That was 1955. This section says:

> In human terms, this meant that the American had to scrap his budget, dig into savings or go into debt, to pay some $7.5 billion for doctors, hospitals, dentists, nurses, and the myriad physical accessories of medical care.

That was 1955, when the Nation's medical bill ran over $10 billion. They were horrified to say over $10 billion. It is now over $2.5 trillion.

So that is the year I was born. We were already bemoaning the state of America's health care system.

This is 1979. I had just gotten out of college. And the HEW Secretary said: Health cost called unjustified. HEW Secretary Patricia Roberts said: The quality of American health care does not justify its price tag of more than $200 billion a year. Still bemoaning the health care problems, still not getting anything done about it.

Now, 1988. This was the year my wife became pregnant with our first child. And here it is. Prospects: Soaring health care costs. Joseph Califano said—he was the former Secretary of Health and Welfare—''The average jump in premiums could hit 30 percent in 1989.'' But at the same time, we are getting less for it.

Chairman DODD just talked about a 20-percent jump in his State recently. You think this was happening today? It is from 1988, 20 years ago. The more

things change in health care, the more they stay the same.

Here is 1992. Health care costs increasing at more than twice the rate of wages have made benefits so expensive it would be surprising if companies were not responding. ''Health care costs dampening hiring.'' And they dampen wages, as we have seen, and increasingly businesses are having to avoid health care because they cannot keep up with that cost. That from 1992.

So we took those stories and we put them together on this chart. This shows the increases in America's spending on health care in each of those years, starting back the year I was born, that first story, 1955, then 1979, then 1987, then 1992, then 2009. It increased from $12 billion, which seemed like a big number then, to $200 billion, to over half a trillion dollars, to $850 billion, nearly a trillion, and now $2.5 trillion.

Look how much it has bumped from 1992 to 2009. This, my friends and colleagues, is what is called a trajectory. It is going to keep going if we do not do anything about it.

The latest estimates for my home State of Rhode Island are that in 2016, which is not too far from now, in 2016, probably about this far up on the graph, $26,000 a year is what a family will have to pay for family coverage—more than $26,000 a year. That means if you are a comfortably earning hard-working individual pulling down a salary of $52,000, half of your income, pretax income, goes out the door for health care before you start anything else. That is not sustainable. That is why we talk about Thelma and Louise instead of Harry and Louise. That is why we need to change the direction of our health care system, not just for the uninsured but for everyone so that all Americans can have a secure health care future. No American will have a secure health care future if this trajectory is allowed to continue.

So if you are out there asking, How would a change in the direction of our health care system help me, think of Thelma and Louise headed off the cliff because that is what the American health care system is like right now. The cliff is coming, and we are all in the car together, and together we have to solve this problem. Because we have to solve it together, it is very disappointing that so many of our friends on the other side have refused to participate in this conversation and have reverted to labels and name calling: socialized medicine, government mandates—things that have nothing to do with our legislation but are designed to scare people and to provoke those who have not sat down and read the bill and do not know better. It is unfortunate.

What does it measure up against? Let me show you a couple of other things. We have had a lot of talk in recent days about the stimulus plan and how effective that has been—a $787 billion stimulus. There it is, that $0.88 trillion is the stimulus for all of the barking and moaning we have had about how much that cost this country. That is what it is. The $8.9 trillion is what George Bush ran up in debt for this country during his Presidency.

Three-quarters of the debt this country bears, George Bush ran up during his Presidency. It was an orgy of fair-weather borrowing. When we didn't need to go into debt to protect our economy, when things were humming along, that is what he did, $9 trillion. Here is our unfunded Medicare liability, $38 trillion. We don't have $38 trillion now. Unless we do something about this cost, we are truly going off the cliff in that car with Thelma and Louise, following that trajectory of cost I showed.

It is not all going for health care that makes everybody better. It is going to a lot of other things. Here is one thing it is going to. Insurance industry profits. Have you noticed your wages going up a lot in the last couple years? For a decade, from 1999 to 2009, wage growth has been 29 percent. That is less than 3 percent a year and way less than 3 percent a year compounded. That is what wage growth has been like. If you don't feel like your wages have gone up much in the last decade, you are right. They haven't. For many Americans, wages flat-lined for a decade. How about your insurance premiums? Did they flat-line? No, sir. The insurance premiums went through the roof, increased 120 percent, more than doubled in one decade. That is the steep curve I showed you, 120 percent. How about insurance industry profits? Up 428 percent in the same period that wages were up 29 percent. So there is something we can do something about.

On insurance, so many Americans are uninsured, it is worth taking a look at this. We have all used and heard the figure about 46, 47 million Americans who are uninsured. That is the people who are uninsured at any given minute. As I stand here at this desk right now, out there in America there are about 47 million people who are uninsured. But some people gain insurance and some people lose insurance. Over the course of a year, the number of people who lose their insurance, whose families lose their insurance, is nearly 87 million. If you started on the east coast and moved your way west, and when you got to the Mississippi and you started into Minnesota, Iowa, Missouri, Arkansas, and Louisiana and you took the population of every single State west of that all the way to California, the population of all these States is about 87 million, to give you an idea of how many Americans lose their health insurance and have to go without it at a point during the year.

Then there are catastrophic levels of waste in our health care system. Our former Treasury Secretary, a Republican, knowledgeable about this, ran the Pittsburgh Regional Health Initiative for years. He said $1 trillion of annual waste is associated with process failures. He has calculated $1 trillion a year of waste in our health care system.

The Lewin Group is a group many people talk about here. They are described on the Senate floor as the gold standard in health care information. Sources of potential excess costs: Excess costs from incentives to overuse services, from poor care management and lifestyle factors, excess costs due to competition and regulatory problems, excess costs due to transactional inefficiencies; $151 billion here, $519 billion here, $135 billion here, $203 billion here. As we say in Washington, a billion here and a billion there, and pretty soon it starts to add up. This adds up to over $1 trillion in waste in congruence with what the former Treasury Secretary said.

It is not just newspapers that are saying it. It is also President Obama's own Council of Economic Advisers. Their report on July 9 said that:

> Efficiency improvements in the U.S. health care system potentially could free up resources equal to 5 percent of U.S. GDP which is above $700 billion a year.

They also noted:

> [It] should be possible to cut total health expenditures by about 30 percent without worsening outcomes . . . [which] would again suggest that savings on the order of 5 percent of GDP could be feasible.

Again, two calculations coming to the same point, savings of over $700 billion a year.

That is one of the things we are trying to do. In addition to family-by-family improvements, small business-by-small business improvements, individual-by-individual improvements that Chairman DODD has wrought through this bill, we are also trying to turn around a health care system that has been out of control, that has not been reformed for my entire lifetime. So that now is our moment, and it is on a trajectory that will break this country if we don't do something about it. We simply cannot continue a cost curve such as this that is already at $2.5 trillion and is accelerating northward. We can't be competitive with our international competitors in trade if we do this. We can't sustain our families if we do this. We simply cannot keep this government fiscally solvent if we do it. We have to turn the car before it gets to the cliff. If we can't do that, then shame on us.

I think we need to be in this together. One of the ways we will do this is through a public plan. A public plan is important because there are a number of ways in which you change those cost curves. You don't have to take services away from people because of all that waste. What you have to do is deal with the waste. You build in electronic health records for every American so the efficiencies that other industries have enjoyed from the computer revolution finally hit health care which, according to the Economist, has the worst information infrastructure of any American industry except mining—the mining industry and then

health care. Huge improvements and huge savings from that.

Quality improvements can save money. It has been demonstrated over and over again, as in Senator STABENOW and Senator LEVIN's home State of Michigan. They did quality improvements in intensive care units. In 15 months, they saved $150 million and 1,500 lives, and it wasn't even in all the intensive care units. It was just in one State. It was that one kind of quality improvement program, just in intensive care units. So huge gains to be made from quality improvements.

Prevention. Senator HARKIN spoke the other day about what can be gained from preventing particularly conditions that arise from diabetes. Enormous savings, if we can focus on all that.

Transparency and improved administrative efficiency so doctors and insurers aren't fighting all the time. We can do all those things, but somebody has to lead. The question for us is, can we trust the private insurance companies to lead in all those areas. If you look back, you see they never have. We are way behind where we should be. They are not leading. It will take a competitive public option to pick up those issues and run with them and show what we can do.

I will close with this. One of the things we are hearing is you can't possibly have a public option. It is a line in the sand. The very distinguished ranking member of the HELP Committee has said it is intolerable to have a public option. It simply would not work. It can't happen. There are two ways we get health insurance in this country. One is through a private health insurance provider. The other is through workers' compensation, which the business community runs in order to protect itself against the injuries and illnesses and diseases and catastrophic harms that can happen to people at work and that they have to protect themselves against. All across America, there are State funds, public options that deliver health care insurance, State by State, over and over again. So when the ranking member goes home to his State of Wyoming, not only is a public option for delivering health insurance not anathema, it is what he goes home to.

He goes home to a single-payer public option for health care, one his business community appears perfectly satisfied with and he appears perfectly satisfied with.

Their Presidential candidate, JOHN MCCAIN, goes home to Arizona to a public plan with 56 percent market share. It competes in a lively workers' compensation health insurance market. The distinguished minority leader goes home to Kentucky, and in Kentucky his business community enjoys a public option for workers' compensation health insurance. So we should be able, in the spirit of coming together in the face of this national emergency, to put aside the old notion that a public option simply can't exist, can't happen. It happens in nearly half our States. It is supported by the business communities in those States. It delivers care efficiently, and none of the Republican Senators from those States have, to my knowledge, ever complained about it in that context.

I will conclude with that. I think we are at a turning point, and it is important, as we go, that we remember this is a long struggle we have been on. My entire lifetime, since 1955, it has gotten dramatically worse, and the rate at which it has been getting worse is increasing. It is worsening. We have to do something about it now—for everybody in this country, for businesses large and small, and for people and families, insured and uninsured, and we are pledged to do that.

I thank the very distinguished chairman and yield the floor.

Mr. DODD. Mr. President, I thank our colleague from Rhode Island. He has been very eloquent in talking about the historical framework of this debate, going back, even predating the 1950s, when we determined the need for a national health plan in this Nation, not only to deliver health care to people but also to deal with the economic problems associated with health care costs. I thought it might be worthwhile to invite my colleague to share some additional thoughts on this view. Today, as I am told, we are spending about 17 percent of the gross domestic product on health care costs. I am told, by those who are economists looking at this, that if we don't alter anything but merely sort of stumble along, that percentage of our gross domestic product will jump from 17 percent to 34 percent of the gross domestic product, which is a staggering amount when we consider how expensive that would be and the result, in practical terms, to the very premium costs the Senator from Rhode Island has identified.

I also talked the other day to a leading businessman in our country, the former chief executive officer of Pitney Bowes, a well-known, established company, headquartered in my home State of Connecticut but has facilities in many States across the country. It employs thousands of people. The former CEO is a man named Mike Critelli. He is no longer the CEO, but he was the CEO who was responsible for bringing a wellness plan to Pitney Bowes. I think my numbers are pretty accurate on this point. I think their premium reduction, as a result of putting a wellness plan in place there, reduced those costs by around 30 or 40 percent. They decided to alter the lifestyles of their employees by offering them incentives—the opportunity to reduce weight, quit smoking, improve diets, all these things.

Talking to Mike Critelli, he did it because, one, he thought it was the right thing to do. Certainly, improving the quality of the health of your employees is a decent thing to do. But Mike Critelli also pointed out to me that in addition to being the decent thing to do, it was a very sound practice for business. Very simply, he said: If I could increase the productivity of my workers, which is the critical element, if the United States is going to compete in the 21st century, if wage rates are not going to drop down to Third or Fourth World country levels, we are going to have higher wage rates. We are going to have higher costs to produce our products.

The one advantage we bring over third-rate and fourth-rate nations that don't pay as much for employment is the productivity of the American worker, which historically has exceeded that of almost any other worker anywhere in the world.

Mike Critelli's point is that having a good wellness plan in place increases the productivity of that worker, and that is our edge in a global economy. So we need to start thinking in these terms.

I hear people in the business community say we can't afford to do this. We can't afford not to do it. You can't have 34 percent of your gross domestic product be consumed with health care costs.

Our advantage is productivity. As Mike Critelli points out, if your workers are sick, if they are obese, if they have diabetes, if they have chronic illnesses at a young age, as many do today, then the ability of that worker to produce those products and services is going to be curtailed and we suffer.

So there needs to be some lights turned on for some in the business community about this debate. Some are having sort of a Pavlov's dog response to it. If you mention health care reform, they reach back decades to the age-old bromides and responses to this issue without thinking about what this means in the 21st century, freeing up the ability of workers to produce better products in a highly competitive marketplace.

Let me mention one other thing I do not think we have talked about. Forty-four years ago from last week, Lyndon Johnson signed Medicare into law. Last week was Medicare's birthday. Medicare was signed into law 44 years ago, in 1965. Obviously, that was a great benefit to people over the age of 65, and what a difference it made. It took that population, which was the poorest sector of our population, the elderly, and put them on a standard of living that allowed them to lead decent lives after productive years of working.

So with prescription drugs, doctors visits, and the like, put aside the problems today with Medicare we know exist and we have to deal with, it did something else I do not think we have paid enough attention to. It was a source of relief and stability to a family. Because all of a sudden those parents—which a younger generation had to put aside resources to provide for that crisis that was inevitably going to happen to those aging parents—became less of a burden because Medicare existed. The cost of prescription drugs,

the visits to the doctor, the hospitalizations—all of a sudden, magically, 44 years ago from last week, a good part of that burden was lifted off the shoulders of the children of Medicare recipients.

And it unleashed a level of investment that allowed our economy to prosper and grow. For other reasons too, but not the least of which, all of a sudden, there was that security in a family. They were not going to face financial ruin because, all of a sudden, their parents had a crisis they were going to have to pay for out of their pockets.

I do not know if there are any economic models that examined that, but I do not think we attribute enough of Medicare's success to the contribution it made to the overall economy of our Nation 44 years ago because of that stability and certainty and security in a family, where your parents—that aging population—at least had a safety net that would protect them against that financial ruin that can befall a family.

I think we are missing a point in this debate in that what people are really worried about is that lack of certainty, that lack of stability. People are socking away money today because: If I lose my job, if I end up with a preexisting condition, if we move, I could lose my health care coverage, and all of a sudden my kids, my wife, myself are put in the danger of economic ruin. That uncertainty, that lack of stability, that lack of security has a negative impact on the consumer choices people make. I might like to buy that second car. We may need it but—do you know what—756,000 people are going to lose their health insurance in the next 5 weeks. I might be one of them. And if something happens, how do I pay for that problem? So—do you know what—we are going to delay that purchase or this other thing we might have done because I don't have the stability, the certainty, and the security there is a safety net there. Lord forbid a crisis hits my family.

So while there is the comparison between Medicare's recent birthday 44 years ago and what we are trying to achieve—we are thinking about it in a very small context: How much does that doctor visit cost? How much is that prescription drug? There are benefits to this that exceed the parameters of what we are trying to achieve because of the investments we are making that I think have a larger impact on the overall economy of our Nation.

So I wanted to say to my colleague from Rhode Island, by talking about these rising costs—and no end in sight, by the way—unless we find some way to put the brakes on all of this and begin to reduce the problems—how do you do that? If all of a sudden you have a child who is getting good dental care at an early age, that child is less likely to have a problem as they get older. If we can convince children and families to eat better because we make the incentives to do so—3,500 children today started smoking in the United States, and 3,500 start smoking every single day. And every single year, 400,000 people die because of tobacco-related illnesses—400,000 die—not to mention the number of people who have lifelong illnesses and die prematurely.

Of the 3,500 who start smoking today, 1,000 become addicted. You do not have to have a Ph.D. in medicine to know that if you are a user of tobacco products, you are consuming a product with 50 carcinogens in each cigarette.

Here we know if we can begin to change that lifestyle, which we have done, by the way—and, again, I thank my colleagues because, for the first time in 50 years since the Surgeon General pointed out that tobacco could kill you, only a few weeks ago we did what we have never been able to do before: Tobacco marketing, sales, and production are now under the control of the Food and Drug Administration. By the way, the Food and Drug Administration regulates mascara, lipstick, and pet food. But we could not get the Food and Drug Administration to regulate tobacco products. Now that has changed as a result of the actions of this Congress.

But that is an example of what I am talking about. If we can stop a child from smoking, then that child grows up with a far greater likelihood they are going to reach retirement age in far better shape, which means far less usage of that Medicare dollar and that hospital or that doctor's visit. So you may not see the benefits of some of this immediately but over the longer term we will. And that is bending that curve. We are all talking about bending that curve of cost. We can do that making these kinds of investments.

I am told only 2 percent of hospitals in this country have complete electronic medical records—2 percent. Yet we know that we lose about 100,000 people a year from medical errors in the United States. It is the fourth leading killer of Americans. Electronic medical records reduce those numbers significantly because you have clarity in the records, you have portability of those records as people move around, you have the opportunity to determine what other conditions a patient may have, and you avoid the kinds of errors that produce the tragedy of a lost life. That savings alone in lives and dollars, we are told by some, could be as much as $500 billion. Electronic medical records—that one issue—could produce those kinds of savings and results.

So when we have these debates and people talk about these things in such simplistic terms, without understanding the larger economic implications—and if we do not, the numbers our friend from Rhode Island have shown us, if history is any indicator of where we are going, those numbers will continue to skyrocket and skyrocket to the point that it will bankrupt and break this country financially.

What an indictment of a generation: Faced with a reality and the predictability of a situation, we are spending days around here with the inability to come together and make the tough, hard decisions the American people have elected us to do. That is the tragedy in some ways. I respect the fact we need a break and people are going home, but it is so troubling to me we are going to do this at a time and leave these issues hanging in the balance.

Mr. WHITEHOUSE. Mr. President, will the Senator yield for a moment?

Mr. DODD. Mr. President, I will be happy to yield to my colleague.

Mr. WHITEHOUSE. Mr. President, I want to respond to what the Senator was saying, that this trajectory is very likely to continue. Every signal and every prediction is it is going to continue and we will hit that 35 percent, spending a third of our entire economy just on health care, and that really does break our country. It is a terrible indictment of our generation if we allow it to happen.

But we also have a great opportunity here, which the chairman has also pointed out. As you know, over and over again, as the distinguished Presiding Officer knows, over and over again, in legislation, we are asked to make hard choices between two things, and if you go one way, you cannot go the other. Economists would call it a zero sum game. You cannot have both. There is no win-win.

This is a situation where there is a win-win. As the distinguished chairman pointed out, we are spending 17 percent of our gross domestic product on health care in this country. It is the worst record, the highest expenditure, of any country in the world. Most other developed nations spend 8 or 9 percent. That is the average of the European Union of their gross domestic product on their health care.

For that exaggerated expenditure, what do we get? Lousy health outcomes. We are way behind our developed competitor nations in obesity. We have far higher rates of obesity in our country. We are way behind in child mortality. We have far greater rates of child mortality in the United States than there are in our developed nations with which we compete. There is far greater longevity in those countries than ours. Americans do not live as long as people in our competitor nations, the developed ones, and a lot of it has to do with our health care system.

So by bending that curve, by investing in prevention, by improving the quality by investing in electronic health records, by eliminating those medical errors, we accomplish two things at once. We improve the health statistics of our Nation, we have people who live long, we have less babies who die in childbirth, we have a thinner and less obese and less ill nation, and we lower the costs, and we do it together.

So it should be something we could agree on, on both sides of the aisle, but, unfortunately, these old canards about socialized medicine and how we

could not possibly have a public option—except for the fact we already have it in half our States, including our own; but we are not going to talk about that right now, we are just going to say we could never have it—that is the quality of the debate, when we have this huge win-win in front of us.

I hope everybody has a chance to sort of think about this over the break when we are gone and that we can come back with a new spirit of bipartisanship to really address this problem, seize that win-win, change the cost curve down, and solve this problem for the American people.

I will make one last point.

We have misled the public a little bit in our discussion, and we have done so because of the Congressional Budget Office and its professional capabilities. The Congressional Budget Office is very good at predicting what costs are going to be. So everybody has heard that our bill might be $600 billion, that the Finance bill might be $900 billion. They see the costs and they say: Well, how could you possibly be talking about savings when all we hear about are costs? All CBO can say about savings is that—and this is a quote—large reductions in health care costs are possible—large reductions. But they cannot quantify it. They cannot give us a number. And they have told us why they cannot give us that number.

They cannot give us that number because we can give the Obama administration, here in Congress, the tools to solve this problem. We already passed the electronic health records legislation. If, God willing, we pass the chairman's legislation from the HELP Committee, they will have the tools to improve the quality and turn the curve. They will have the tools to improve prevention and turn the curve. They will have the tools to reduce the unnecessary, wasteful administrative fighting between doctors and hospitals and insurance companies, that try not to pay them. That whole fight can disappear or at least shrink a lot, and that will help turn the curve.

But CBO cannot predict how effectively the Obama administration will do that. Like any CEO, the President of the United States and his staff are going to have to manage this problem, and that is where the savings will come. So people should not be misled that there are not real savings possible. Not only are they possible, they are mandatory. We have to turn this curve, and we have to do it dramatically. We can do it because we could drop our GDP expenditure of this by 50 percent and still have health care as good, if not better, than all of our competitor nations: France, New Zealand, Canada, England, Holland—all these countries—Japan. We can do it.

The promise is out there. We should not let the CBO scoring fool the public. That is my last point.

Mr. President, I yield the floor, and I will relieve the distinguished Presiding Officer so he can speak as the Senator from Colorado.

Mr. DODD. Mr. President, I will do the same. And, again, my thanks to SHELDON WHITEHOUSE of Rhode Island. He has just been a stellar advocate of the kind of change we need.

I know the Presiding Officer, as well, as a new Member of this body, has spent an inordinate amount of time on these questions, as well, in his own State and has listened to people in Colorado talk about this issue and what we can do together to get it right. I welcome his participation immensely as well.

I wish all of my colleagues a very healthy and safe break in the month of August, as I do for all Americans. But I hope my colleagues will keep in mind, I did not recite these numbers to put anyone on the spot. But sometimes we need to talk about numbers that are real to people, and these are real numbers that will potentially affect many of our fellow citizens. So we need to come back here with a renewed commitment to get this done.

We have the capability. We have good people here who care, I know, about these issues. And none of these decisions we can make are going to necessarily predict with absolute certainty that everything is going to work as well as we hope they would. But you have to begin. And we have to take a chance and work forward and hope these ideas we put on the table work. And to the extent they do not, you modify and change it, as will certainly be the case in the years ahead. But inaction, just saying no, is unacceptable. The answer ''no'' to health care ought to be rejected by every citizen in this country. This is a difficult problem, but being too difficult is an excuse that history will never forgive us for. It will never tolerate that excuse: This was too hard to do. When you think about previous generations and hard choices and difficult decisions, we wouldn't be here today if those generations had quit because it was too hard. We are here today because they made hard choices, they made the difficult decisions, and we have no less of a responsibility as a generation to do it on this issue. This is hard and it is difficult, but that will never be an acceptable answer to future generations if we bankrupt our country because we couldn't figure out how to solve this problem.

Mr. President, I yield the floor.

COMMENDING RICHARD BAKER

Mr. LEAHY. Mr. President, I rise today to speak about a man who has been serving the U.S. Senate for almost 35 years. Now that is how I and many other Senators may begin remarks about a colleague who is retiring. My remarks today are indeed about a colleague but not about a fellow Senator. These remarks are about Senate Historian Richard Baker, an important member of the Senate community who has made the Senate a better institution during his tenure.

Remarkably, until 1975 the U.S. Senate did not have a Historical Office charged with preserving the institutional memory of this great body. Dick Baker is the original and only Director and the Chief Historian for the past 34 years. Under his leadership, the Historical Office of the Senate has worked to recover, catalogue and preserve the history of the Senate.

Building this office from the ground up required Dick Baker and his team to collect and maintain records on current and former Senators, record oral histories, document important precedents, statistics and Senate activities. And as a photographer I must point out that this work included the cataloging and preservation of a huge trove of Senate-related photographs.

From the beginning, Dick Baker knew his responsibility at the Historical Office was not only to preserve the history of the Senate but to make it more accessible. That included providing access to records for members, staff, media and scholarly researchers. He exposed more of the Senate and its rich history to the general public through exhibits in the office buildings, presenting materials via the Web and working with C–SPAN to incorporate Senate history into its programming. And as an author, Dick Baker disseminated information with his publications on Senate history, including a biography of the former Senator from New Mexico, Clinton P. Anderson.

His greatest impact on me, however, and I believe the Senate as a whole, has been his placing of our work here in proper context. Most Senators and I look forward to the historical ''minutes'' that he presents at the opening of many of our caucus lunches. He has also been accessible to me and other Senators in providing presentations of the Senate history at many different venues. My staff and I thoroughly enjoyed a presentation he provided to us on the history of the Vermont Senate delegation. His alacrity and care for describing Senate history has reminded all of us about the significance of our work here.

As much as visitors feel the weight of history when they enter this building, it is no less important for those of us who represent them to be well aware of the 200-year history of the Senate. It is important to remember that although great men and women preceded us, and even greater ones will undoubtedly follow, our words and actions will continue to echo through these halls long after we are gone. Dick has reminded us of that regularly, and for that we thank him and wish him well.

COMMENDING RON EDMONDS

Mr. LEAHY. Mr. President, it is fitting that we in the Senate take note of the retirement of Ron Edmonds of the Associated Press, a veteran news photographer who has long and superbly documented public life in the Nation's Capital, including here on Capitol Hill.

If by chance we have not seen Ron himself over the years on the White House driveway or in the Senate's hearing rooms and hallways, we all surely recognize his work. His images, in the parlance of photographers, have bracketed the history of our era, from marches on Washington, to the attack on President Reagan's life—a photograph for which Ron Edmonds was awarded a Pulitzer Prize for spot news photography.

By now he has covered the White House for 28 years and captured the news in images of so many Presidents. He entered the world of photography in the day of celluloid film and concluded his career after having helped usher in the age of digital news photography.

I am grateful to have known Ron during his long career. I wish him and his family our congratulations and our best wishes.

I ask unanimous consent to have printed in the RECORD Ron Edmonds' farewell message to his AP associates.

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

RETIREMENT MESSAGE OF RON EDMONDS

July 2009

After twenty-eight years of covering the White House for the Associated Press, I have decided to retire and spend some time with my family. I know you usually hear this excuse from politicians who have just been caught with their hands in the cookie jar or with a high-priced companion; but, in this instance, spending time with my family is my true reason, ok maybe a little fishing as well.

I have had one of the most fantastic jobs in the world. It has allowed me to work with some of the greatest journalists in the world and to make images of some of the biggest events in the last thirty years. I hope that in some small way, I have helped the Associated Press maintain its prominence as the number-one news organization.

I will never forget the experiences that I have been allowed to take part in: such as, walking through the Forbidden City in China or walking around Red Square with Ronald Reagan; ducking behind an inadequate rock in the Iranian desert as Iraqi artillery shells exploded around us; or, more pleasantly, drinking lemonade with King Hussein and Queen Noor at their summer home in Aqaba, Jordan; and boating down the Nile and strolling through the Valley of the Kings in Egypt with then-Vice President Bush.

I have spent many sleepless nights mulling over this decision. It is difficult to leave my many friends here and around the world at the Associated Press. But I have great hopes for a continued bright future for the AP. I leave with no trepidation but rather with a heart full of confidence that our younger generation of talented AP photographers, such as Charles Dharapak among others, will fill the void with a better and stronger report than ever before.

I have been lucky enough to win a couple of small awards for my work. But perhaps one of the most rewarding still was when my daughter Ashley came home from elementary school one day and announced that she was so proud, because that day she was able to raise her hand and tell the teacher that the picture on the front of her Weekly Reader was taken by her dad.

I will miss all of my friends, especially those editors on the desk of the Washington bureau, who very rarely get the credit they deserve for wading through my many images to put me on the front pages of newspapers and web pages around the world. It has always been a team effort in Washington.

Thanks to all of you for making me look good.

Regards,

RON EDMONDS,
Senior White House Photographer,
Associated Press.

COMMENDING BOVE'S RESTAURANT

Mr. LEAHY. Mr. President, I would like to recognize the Bove family of Burlington, VT, on receiving a prestigious honor from the National Association of Specialty Food Trades. In particular, I congratulate Mark Bove, President of Bove's, and his brother Rick, on receiving the Gold Sofi Award in the Outstanding Pasta, Rice and Grain category.

Bove's Restaurant opened on Pearl Street in Burlington in 1941 and has been a local favorite for generations. Marcelle and I enjoyed many of Bove's Italian specialties while we were dating. I was a student at Saint Michael's College, and Marcelle at the Jeanne Mance School of Nursing. To this day, Bove's continues to be a favorite among college students, and many return to the restaurant as alumni during their reunion weekends.

Much to our delight, Mark Bove began bottling his family's outstanding sauces for sale in grocery stores and now also sells Bove's specialties, including meatballs and lasagna, at retail sites around our country. When I come home from a long day in the Senate, I am delighted that Marcelle and I can still enjoy a dinner from Bove's, just as we did as students years ago. We have also enjoyed sharing their great dishes with other Senators and their staff at the annual Taste of Vermont in Washington.

Once again, I congratulate the Bove family for this high honor. I ask unanimous consent to have a copy of a July 6 article from the Burlington Free Press printed in the RECORD.

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

[From the Burlington Free Press, July 6, 2009]

BUSINESS MONDAY: BOVE'S WINS GOLD FOR LASAGNA

Bove's famous frozen lasagna has been awarded the National Association of Specialty Food Trades' prestigious Gold Sofi Award in the Outstanding Pasta, Rice and Grain Category.

The all-natural, hand crafted lasagna is a frozen version of the popular classic served at Bove's cafe on Pearl Street in Burlington.

A year ago Mark Bove, president and sauceboy, introduced the world to his family's recipe on The Food Network's ''Throwdown with Bobby Flay,'' soon followed by an appearance on ''The Today Show,'' where Bove prepared his lasagna for Hoda Kotb and Kathie Lee Gifford. The national exposure sent demand soaring.

''I was making small versions of the lasagna at the restaurant and shipping them around the country,'' Bove said in a statement. ''We just couldn't keep up with demand this way, which led me to produce the lasagna for retail.''

COMMENDING SENATOR NORM COLEMAN

Ms. SNOWE. Mr. President, I rise today to honor and pay tribute to my good friend and colleague an extraordinary public servant and tireless advocate for the people of his cherished State of Minnesota, Senator Norm Coleman. I want to express my most sincere gratitude for his longtime friendship and my enormous admiration for him and his impressive litany of accomplishments. And although I am saddened by his departure from this esteemed Chamber, I know with utmost certainty that Senator Coleman's exceptional contributions to Minnesotans and the American people will continue well into the future.

I am proud to say that Senator Coleman and I served together over his 6 remarkable years in the Senate, and I would like especially to express my immense gratitude for his pivotal role on the Committee on Small Business and Entrepreneurship over that span of time, where I served first as chair and now as ranking member. Senator Coleman was always a reasoned and passionate voice on the committee, and his indelible impact is indisputable. Whether it was our work together on The Small Business Health Fairness Act of 2005, The Small Business Disaster Response and Loan Improvements Act of 2006, or a number of other measures and issues, Senator Coleman, true to the founding tradition of the U.S. Senate, continually addressed the concerns of his constituents, while at the same time making the best decisions for this Nation.

And I especially well recall our joining forces over the winter of 2006 when natural gas and home heating oil prices had skyrocketed in Maine, Minnesota, and numerous other cold weather States, turning a crucial problem of years past into an urgent crisis that required immediate congressional attention. With the level of funding allocated in the budget, states could not maintain the Low-Income Home Energy Assistance Program, LIHEAP, an initiative I have long championed which provides vital funding to our country's low-income families and elderly.

Recognizing both the plight of Minnesotans and all affected Americans from the beginning of this crisis, Senator Coleman and I, among others, battled to shed light on this emergency early by calling for the passage of a bill to provide additional LIHEAP funding to states. Senator Coleman was an instrumental catalyst in our successful effort to pass this bill to the benefit of countless Minnesotans, Mainers, and other untold Americans across this land. And for that, I will be forever grateful!

With a career in public service of more than 30 years, begun in 1976 when he was chief prosecutor for the Minnesota Attorney General's office, Senator Coleman possessed an unfailing determination to advocate on behalf of the people of Minnesota that has never faltered or waned. Prosecuting cases around the State while further developing a growing concern for community issues, Senator Coleman was eventually named Minnesota State solicitor general. And his outstanding trajectory of leadership was just taking off, for it was then—in 1993—that Norm became mayor of St. Paul, during which time, with his hallmark optimism, he steered the course of the capital city through a transformational revitalization effort.

And so, it came as no surprise that Norm Coleman, after he was sworn in as a U.S. Senator, hit the ground running. And let me say from the outset, Senator Coleman's was a welcomed voice in an era of increasing partisanship, especially at a time when ideology has been held in greater value by many of our Nation's elected officials than service to the American people, when too often the slogans and sound bytes of campaigning never stop, and the governing all too frequently never begins, and where public disenchantment with politics runs high. Senator Coleman's desire to look beyond this regrettable status quo, embracing instead the long-held tenets of collaboration and cooperation, could not have been more central as our chamber sought to enact laws to genuinely improve the lives of Americans.

As I reflect on my friend's illustrious tenure in the Senate, I cannot help but recall in instance after instance on imperative matters of far-reaching consequence how Senator Coleman was able to transcend party politics and seek solutions and results for the betterment of his State and country. For example, Senator Coleman, along with Senators Durbin and Lincoln, was a leading proponent, supporting The Small Business Health Options Program Act or The SHOP Act which would once and for all finally level the playing field for American small businesses and the self-employed and allow them to pool together nationally to receive a host of new, affordable, and quality coverage options.

Norm, like the rest of us, understood all too well that health insurance market reform and coverage policies in The SHOP Act must be included in broader health reform legislation. We will miss his voice as the health care debate moves forward and as we strive to build a consensus on landmark, health care legislation. But make no mistake, Senator Coleman was integral in helping lay the foundation for achieving meaningful and sustainable health care reform.

Placing his country and constituents above political expediency, Senator Coleman and I joined together in support of passage and eventual enactment of The Fair Equity Act, bipartisan legislation aimed at increasing pay equity in America and protecting victims of wage discrimination into law. We have labored to extend key, renewable energy tax credits to expand the indispensable State Children's Health Insurance Program or S-CHIP. We stood side by side in the fight to allow Medicare to negotiate lower drug prices, and we joined together to help block proposed cuts in Medicaid. I want to thank Norm, who has truly been a stalwart soldier in arms, for his resolve and will on a cross-section of issues that have defined his term in the Senate as a model of governance that ought to be more prevalent.

In that vein, I cannot convey enough what a privilege it was to serve in the Republican Main Street Partnership with Senator Coleman—an organization that my husband, Jock, formerly chaired. Founded in 1998 to promote thoughtful leadership in the Republican Party and to join with individuals, organizations, and institutions that share centrist values, the partnership has unfortunately witnessed a decline in our ranks in recent years. But the message and impact of the organization are intrinsically connected to our capacity to truly achieve bipartisanship and garner results on behalf of those who elected us, and Senator Coleman embodied that ethos with integrity and distinction.

In fact, Senator Coleman characterized the Main Street's message well when he said, ''this isn't about marching to a single tune. This is about being able to listen and work with like-minded colleagues, bring those perspectives, and hopefully play a role in the resolution of things that bottom line are good for the people of Minnesota.'' Well, his actions not only aided Minnesotans, but also Mainers and Americans of every stripe and background across this great land.

And yet, despite all of his exemplary achievements, his greatest accomplishment is undeniably his wonderful family and the love and devotion he has for his wife Laurie, and their two children, Jacob and Sarah. So, it is with a profound honor that I join with his family, and his many friends, in praising Norm for his tireless stewardship of the common good and phenomenal commitment to public service, and for a tenure that enfolds his legacy into the rich, longstanding Senate tradition of Minnesota.

And so to my colleague and good friend, Norm, let me say, you have been a shining example of bipartisanship and comity that transcends politics, and you will be sorely missed. As you embark on this next chapter and as you consider your next endeavors be they public or private, I urge you, in the immortal words of the poet Alfred Lord Tennyson, ''to strive, to seek, to find, and not to yield.''

Mr. CORNYN. Mr. President, I join my colleagues in appreciation and admiration of Senator Norm Coleman. Norm has been a faithful public servant to the people of Minnesota, a principled leader, and a good friend. He made a difference here in Washington, and I feel privileged to have served with him in the U.S. Senate.

Norm and Laurie arrived in Washington at the same time as Sandy and me. We experienced many of the same challenges and adjustments that freshman Senators face, and we encouraged each other by facing them together. Norm and I found we shared a common approach to solving problems, and partnered to advance legislation whenever we could.

Norm said his best ideas came from the people of Minnesota, and they can be proud of what he achieved in Washington. Norm supported conservation programs to protect his State's lakes, rivers, and woodlands. He had a real heart for children, especially those suffering from cancer or waiting to be adopted into loving homes. He was a champion of private-sector initiatives in alternative energy, including clean coal, wind power, and biomass technologies. Norm exposed fraud at the United Nations, waste in the Medicare Program, and tax evasion by defense contractors. Norm voted to put John Roberts and Samuel Alito on the U.S. Supreme Court. Norm consistently supported our troops in Iraq and Afghanistan and he believed in their mission.

Some of my strongest memories of Norm were formed during our trip to Iraq in January of 2008, about a year after President Bush announced our surge of forces there. Norm had joined many Senators in supporting the surge, despite the political risk that support entailed. He understood that the strategy and leadership of GEN David Petraeus was America's best chance to succeed in Iraq.

Norm and I, along with Senator Johnny Isakson, visited Baghdad together. We had dinner with General Petraeus and Ambassador Ryan Crocker, and discussed how we could facilitate political reconciliation in Iraq. We met with General Ray Odierno to discuss the new mission of population security, as well as the progress they were seeing in reducing violence and U.S. casualties. We toured a marketplace in western Baghdad, where U.S. and Iraqi forces had helped bring back shopkeepers and their customers by driving out insurgents and terrorists.

During our visit, I got to see the Norm Coleman that Minnesotans know very well. At Maverick Security Station in Baghdad, I saw Norm honor troops who hailed from the Twin Cities and throughout his State. At a meeting with Iraqi civilian leaders, I saw him offer encouragement to Sunnis, Shias, and Kurds working to build a free and democratic nation in the heart of the Middle East. And wherever we traveled, I saw his easygoing manner, his wry sense of humor, and his appreciation of the honor bestowed on him by his fellow Minnesotans.

Norm ran a tough race for reelection last fall, a race that lasted far longer

than the Minnesota winter. He mounted a legal challenge based on a clear principle: no Minnesotan should be disenfranchised. As chairman of the National Republican Senatorial Committee, I was proud to support Norm as he pursued his case in the courts. And once the courts had spoken, I respected the grace with which he conceded the race, and the optimism he has shown for his own future, and that of our country.

Norm accomplished much in Washington, but I think he remains proudest of what he achieved closer to home. After Minnesota's hockey team moved to my home state of Texas back in 1993, Mayor Norm Coleman of St. Paul led the effort to bring the National Hockey League back to the Twin Cities. Since the first puck dropped in 2000, the Minnesota Wild have sold out every game they have played, and every fan owes a debt of thanks to Norm Coleman.

I too am thankful for Norm Coleman, because he set a good example for all of us. He never let public service go to his head. He always put his faith and family first. He fought hard to keep his seat, but never failed to keep his cool.

I wish Norm and Laurie the very best, as their journey together continues.

PROTECTING TENANTS AT FORECLOSURE IMPLEMENTATION

Mr. DODD. Mr. President, for too long, tenants have been the innocent victims of the foreclosure crisis. Countless tenants across the country have been forced to leave their homes simply because their landlords were unable to pay their mortgages. Too often, these tenants had no idea that the property was even under foreclosure until the authorities arrived at their door to inform them that they must vacate the property immediately.

I was pleased to work with Senator KERRY to include the Protecting Tenants at Foreclosure Act of 2009 in the recently enacted Helping Families Save their Homes Act. This new law protects tenants facing evictions due to foreclosure by ensuring they can remain in their homes for the length of the lease or, at the least, receive sufficient notice and time to relocate their families and lives to a new home. The full Senate approved the bill on May 6, 2009, and President Obama signed it into law on May 20, 2009.

These protections are so important that my colleague Senator KERRY and I want to ensure that families and mortgage holders know their rights and obligations under the law.

Under the new law, all bona fide tenants who began renting prior to transfer of title by foreclosure of their rental property must be given at least 90 days' notice before being required to vacate the property. In addition, these bona fide tenants are allowed to remain in place for the remainder of any leases entered into prior to the transfer of title by foreclosure. These leases may be terminated earlier only if the property is transferred to someone who intends to reside in the property and only if the tenants are given at least 90 days' notice of the fact of such sale. Successors in interest to properties with section 8 housing choice voucher tenants automatically assume the obligations of the former owner under the housing assistance payments contract.

These basic protections are the law for tenants in every State, unless States have laws or practices that provide greater protections. I want to ask Senator KERRY, the original author of the act, if I have correctly expressed the intent of this legislation.

Mr. KERRY. Mr. President, I was pleased to work with Senator DODD to enact this legislation to help tenants affected by foreclosures.

No one in the Senate has worked harder to fight against the scourge of foreclosures than Chairman DODD. As a former member of the Senate Banking Committee, I know Chairman DODD has tirelessly fought to assist low and moderate-income families and to help tenants who need protections from foreclosures or unscrupulous landlords. Without his efforts, families in Connecticut and across the Nation would not have access to critically needed protections and many more American families would be facing foreclosure.

I agree with Chairman DODD that it is important that persons and entities acquiring properties by foreclosure follow the law, and that tenant families obtain the benefits the law was intended to provide.

I also agree with Chairman DODD's statement of the intent of the legislation. As the chairman stated, the law was intended to provide all bona fide tenants, who began renting prior to transfer of title by foreclosure of their rental property, be given at least 90 days' notice before being required to vacate the property. In addition, these bona fide tenants are allowed to remain in place for the remainder of any leases entered into prior to the transfer of title by foreclosure. These leases may be terminated earlier only if the property is transferred to someone who intends to reside in the property and only if the tenants are given at least 90 days' notice of the fact of such sale. Successors in interest to properties with section 8 housing choice voucher tenants automatically assume the obligations of the former owner under the Housing Assistance Payments contract.

Both the Federal Reserve and the Department of Housing and Urban Development have acted quickly to issue notifications to the entities that they regulate describing the law in the same way. Their notifications stated how regulated institutions are expected to comply with the terms of the act. These regulatory actions are crucial for the proper implementation of the act because foreclosing entities, who often wind up owning the properties after the foreclosure, have a responsibility to obey the law. Families in these precarious circumstances should not be forced individually to assert their rights under the law.

Mr. DODD. I agree with Senator KERRY. Again, I thank the Senator for bringing the original legislation forward and working with me to enact it. I look forward to working with Senator KERRY and all my colleagues to ensure that families' rights under the law are known and protected.

DROUGHT RELIEF

Mr. CORNYN. Mr. President, today I speak on behalf of the farmers and ranchers of Texas. Like millions of Americans in other States, Texans love the land. From the hill country to the river valleys—from the panhandle to the gulf coast—our land helps define who we are.

And for many Texans, the land is their livelihood. One in seven jobs in our State is tied to agriculture. We lead the Nation in several crop and livestock industries—including the production of cattle and cotton. Texas farmers and ranchers help feed and clothe Americans in every State—and in dozens of countries around the world.

Our farmers and ranchers are tough people—and they are seeing tough times. Central and south Texas is experiencing some of the driest conditions in the country today. Seventy counties in our State are experiencing extreme or exceptional drought—the two worst classifications made by the USDA. These areas represent 42.5 million acres—about 25 percent of Texas—and nearly equal to the total land area of New England.

The drought has severely impacted Texas farmers and ranchers. According to one recent study, economic losses will reach $3.6 billion by the end of this year—a little less than $1 billion in livestock losses—and the rest in crop losses.

A few weeks ago, I met with some ranchers and farmers in San Angelo, TX. They shared with me how drought conditions were devastating production—even as the recession weakened demand. They also asked me a question: Where was the money Washington promised to help them through these tough times?

Their question is the same question I am asking today: Where is the money Congress authorized last year for the Supplemental Revenue Assurance Program?

The SURE Program was included in the farm bill we passed in June of 2008. It received broad bipartisan support. It created a trust fund of about $3 billion a year to help farmers and ranchers during tough times.

Yet despite becoming law more than a year ago, the SURE Program has still not been implemented by the USDA. Not a single farmer or rancher has received any assistance from the trust fund so far. No payments had even been

planned before December of this year—as it is the lowest of five priorities within USDA's disaster assistance program.

On July 16, I wrote Secretary Vilsack. I asked him to tell me when our farmers and ranchers can expect to receive the assistance Congress authorized for them. I also cosponsored Senator HUTCHISON's amendment to the Agriculture appropriations bill, which expresses the sense of the Senate that USDA should expedite the drought relief we approved last year.

This week, I spoke to Secretary Vilsack as he was traveling in Kenya. He told me that the SURE Program should be finalized by September, which is encouraging news. He also said that the Department's antiquated record-keeping, as well as new demands imposed on USDA in the stimulus bill, have prevented this program from being finalized sooner.

Nevertheless, Mr. President, I am frustrated that we are discussing more money for cash for clunkers—when we should be asking: Where's the cash for crops? Where's the relief for ranchers?

Other Senators may be asking a third question: Why should I care? I can think of two reasons.

First, Texas isn't the only State susceptible to drought conditions. The Lone Star State is experiencing the worst of it now, but many other States in the South and West could experience similar conditions in the future. The SURE Program was created for farmers and ranchers in all of our States—so we all have a stake in seeing this program implemented quickly and successfully.

Second, the implementation challenges of this program should be on our minds as we consider expanding or creating new programs. Mr. President, the SURE Program isn't a complicated program. It is a fairly straightforward disaster assistance initiative. This shouldn't be a heavy lift for the Federal bureaucracy.

Yet if a simple program like this takes a year or more to get off the ground—Senators really should pause and take a deep breath before we create a vast new Federal bureaucracy to run a complicated cap-and-trade scheme, take control over one-sixth of our economy in the name of health care reform, or dump more taxpayers' dollars into the Cash for Clunkers Program.

PSORIASIS AWARENESS MONTH

Mr. MERKLEY. Mr. President, I rise today to bring attention to the serious, debilitating, chronic diseases of psoriasis and psoriatic arthritis. August is Psoriasis Awareness Month, and I urge you to support S. 571, the Psoriasis and Psoriatic Arthritis Research, Cure, and Care Act for 2009—important legislation that I have cosponsored with my colleagues.

This legislation will fill important gaps in psoriasis and psoriatic arthritis data collection and research, and is an important step in providing relief to the as many as 7.5 million Americans that the National Institutes of Health, NIH, estimates suffer from these noncontagious, genetic autoimmune diseases.

Psoriasis is the most prevalent autoimmune disease, yet is widely misunderstood, minimized, and undertreated. Between 10 and 30 percent of people with psoriasis also develop psoriatic arthritis, which causes pain, stiffness and swelling in and around the joints. Without treatment, psoriatic arthritis can be disabling. Of serious concern is that people with psoriasis are at elevated risk for myriad comorbidities, including but not limited to, heart disease, diabetes, obesity, and mental health conditions. Psoriasis and psoriatic arthritis impose significant burdens on individuals and society. Psoriasis alone is estimated to cost the Nation 56 million hours of lost work and between $2 billion and $3 billion annually.

The Psoriasis and Psoriatic Arthritis Research, Cure, and Care Act would help combat the pain, suffering, and stigma of psoriasis and psoriatic arthritis by expanding psoriasis research conducted by the NIH and strengthening patient data collection on these diseases by establishing a national psoriasis and psoriatic arthritis patient registry through the Centers for Disease Control and Prevention. The bill also directs the Secretary of Health and Human Services to convene a summit to discuss issues and opportunities in psoriasis and psoriatic arthritis research. Finally, the bill calls upon the Institute of Medicine to conduct a study and issue a report on recommendations with respect to access to care for people with psoriasis and psoriatic arthritis. Taken together, these efforts will help reduce and prevent suffering from these conditions.

I would like to take a moment to recognize Paula Blount, a National Psoriasis Foundation volunteer whose 6-year-old daughter Hannah has psoriasis. While this disease is physically painful, for a child, the emotional pain can be just as debilitating. In the summer months, little Hannah endured many stares and rude remarks at the public pool. Her psoriasis was particularly bad, covering a large portion of her small body. Paula eventually bought a pool for the backyard so her daughter could swim at home without being teased and embarrassed. It is important that we do all we can to work with groups like the National Psoriasis Foundation to raise awareness about the disease and to fight the stigma that this serious autoimmune disease is just a case of ''dry skin.''

In my home State of Oregon there are over 89,000 of my constituents living with psoriasis and psoriatic arthritis. I encourage my colleagues to meet with psoriasis patients in your States to learn more about psoriasis and psoriatic arthritis, and work to reduce the misconceptions surrounding these conditions. I further urge you to join with me and other colleagues in supporting people with psoriasis by cosponsoring S. 571.

Mr. MERKLEY. Mr. President. I ask unanimous consent that the letter dated August 6, 2009, from Consumers Federation of America, et al., be printed in the RECORD.

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

CONSUMER ACTION, CONSUMER FEDERATION OF AMERICA, CONSUMERS UNION, NATIONAL CONSUMER LAW CENTER, U.S. PUBLIC INTEREST RESEARCH GROUP,

August 6, 2009.

Re Deceptive Loan Check Elimination Act.

Hon. JEFF MERKLEY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MERKLEY: We congratulate you on introducing legislation to protect consumers from the risks of credit marketed via unsolicited checks that can be signed and deposited, obligating consumers to repay high cost loans. The Deceptive Loan Check Elimination Act fills a gap in protections against mailing unsolicited credit devices that has existed since Congress prohibited banks from mailing live credit cards to consumers in the 1970's.

Checks mailed as part of credit solicitations represent the loan principal, not just a credit line. Once these checks are ''cashed,'' the borrower becomes obligated for a relatively large debt generally at a high interest rate and prohibitive terms. This marketing device poses significant costs on consumers, given identity theft and its repercussions. First, consumers are harmed if these checks are cashed by someone other than the named borrower. Given the ease with which incoming mail can be stolen from mail boxes or diverted by others in a household, marketing by unauthorized live check loans is a risk to consumers who did not request credit. The cost to consumers includes the time and money spent correcting credit reports and notifying lenders about fraudulently arranged debt as well as reduced credit scores until the fraudulent item is corrected, which can take months. Second, live loan checks present a ''free money'' temptation for consumers struggling to make ends meet, who may not have the ability to pay back the check loan.

No device that extends credit and obligates borrowers should be sent without express request from consumers. It is high time that Congress complete the job started over thirty years ago to prohibit creditors from mailing out live credit devices to consumers who did not request them and that can be used to obligate consumers and damage credit ratings.

We look forward to working with you as this bill moves through the legislative process. Please contact Jean Ann Fox, CFA.

Sincerely,

JEAN ANN FOX,
Consumer Federation of America.

CHI CHI WU,
National Consumer Law Center (on behalf of its low income clients).

LINDA SHERRY,
Consumer Action.

EDMUND MIERZWINSKI,
U.S. Public Interest Research Group.

PAMELA BANKS,
Consumers Union.

YEMEN

Mr. FEINGOLD. Mr. President, the Obama administration has rightly focused much of its attention not on Iraq but on the region of the world that most threatens our national security—the Pakistan-Afghanistan region. This was long overdue. The lost time has greatly damaged our national security and left us with fewer options in South Asia. I continue to be concerned, however, that the escalation of our military efforts in Afghanistan could further destabilize Pakistan, where the leadership of al-Qaida and Afghan Taliban operate and where Pakistani Taliban elements are seeking to extend their reach. I expressed these concerns, among other places, at a hearing of the Senate Foreign Relations Committee to Ambassador Richard Holbrooke, the administration's envoy to the region. Ambassador Holbrooke conceded that the concern was real and that, while the administration was aware of the risk, they could not rule out these unintended consequences. Testifying before the same committee a week later, Admiral Mullen made similar comments.

The war in Afghanistan is inextricably linked to the al-Qaida safe haven in the FATA and the Afghan Taliban safe haven in Balochistan, as well as to the current conflict in the Northwest Frontier Province and to the rest of Pakistan. It is not the same war throughout the region and it would be a mistake to perceive a monolithic enemy. But we need to consider the consequences of our actions and those of our partners throughout the region.

Last year, I made a trip to Peshawar in the Northwest Frontier Province. There I met the province's leadership, as well as the extraordinary Americans working in our consulate there. During and after my trip, I expressed concern about the impact of deals made between the government and the Pakistani Taliban. Tragically, however, the situation in the NWFP got worse. Increasing violence in Peshawar included the killing of USAID employees and an attack on our top diplomat there. And the Pakistani Taliban's reach into Swat became broader and more radical, further threatening our national security and that of Pakistan. These advances must be permanently rolled back, just as safe havens in the FATA cannot be allowed to stand.

But it is not enough for us to throw our support behind the Pakistani military incursions. This is a critical moment in which it matters how Pakistan seeks to reassert its control. The displacement of over 2 million civilians, delays in assistance to and the return of the displaced, and a failure to ensure coordinated and accountable civilian-led security to the people all pose serious risks. Internal conflicts fuel terrorist recruitment and can create new safe havens. So while we have a clear interest in the success of one side—the Pakistani Government—we also have a clear interest in how this conflict is waged and how it is resolved.

At the same time, we must focus more attention beyond the safe havens and instability in South Asia, particularly on Yemen and Somalia. The threat from al-Qaida affiliates in those countries, as well as from al Shebaab, is increasing. Weak states, chronic instability, vast ungoverned areas, and unresolved local tensions have created almost ideal safe havens in which terrorists can recruit and operate. They have also attracted foreign fighters including, in the case of Somalia, Americans. Al-Qaida's long tentacles reach into these countries, and our efforts to track individual operatives are critical, just as they are in Pakistan. But, while we should aggressively pursue al-Qaida leaders, we will not achieve our long-term strategic goals if we think about counterterrorism primarily as a manhunt or if we assume there is a finite number of terrorists in the world. Conditions in places such as Yemen and Somalia create and attract new ones. That is why press stories suggesting that operatives from Pakistan are relocating, while troubling, ignore the larger strategic picture. Because of conditions on the ground, al-Qaida affiliates in Yemen and Somalia are perfectly capable of expanding their reach and capabilities on their own. And the best way to stop them is to address head-on the reasons—frequently unique to the countries in which they are operating—for their success.

The threats to our national security in Yemen are serious and are getting worse. News last month about the murder of as many as nine hostages in Yemen, which Yemeni officials have linked to groups affiliated with al-Qaida, is a reminder of the increasing violence there. As in Peshawar, our diplomats have been in the crosshairs, with the attack last September on our Embassy in Sana'a. And, as our State Department has warned, al-Qaida in Yemen's recruitment remains strong, and its tactics indicate high levels of training, coordination, and sophistication. Any serious effort against al-Qaida in Yemen will require the engagement of the government, whose capabilities and commitment are extremely weak. Yemen is a fragile state whose government has limited control outside the capital. It is also distracted from the counterterrorism effort by two other sources of domestic instability—the al-Houthi rebellion in the north and tensions with a southern region with which Sana'a was united less than 20 years ago. In other words, counterterrorism is hampered by weak governance and by internal conflicts that would not appear on the surface to threaten our interests. Our only choice, then, is to develop a comprehensive policy toward Yemen that places counterterrorism within a broader framework that promotes internal stability, economic development, transparency, accountability, and the rule of law.

And we must do this while considering the obstacles to repatriating the approximately 100 Yemeni detainees currently detained at Guantanamo Bay. I have spoken out about security gaps in Yemen, particularly with regard to the escape from detention of a terrorist operative responsible for the attack on the USS *Cole*. I support the closing of Guantanamo, but with so many of its detainees hailing from Yemen, we need to take an honest look at the weaknesses in Sana'a's justice and security systems and consider whether there is anything we can do about them.

Instability in Yemen is, of course, directly linked to conflict in the Horn of Africa. Earlier this year, the pirate attack on a U.S. vessel briefly raised awareness of maritime insecurity fostered by a lack of effective governance and insufficient naval capacity on both sides of the Gulf of Aden. This problem continues, even when it is not on the front pages, and is both a symptom and a driver of overall instability in the region. Meanwhile, refugees from the conflict in Somalia are fleeing to Yemen. According to a recent U.N. report, thirty 30,000 have crossed the Gulf of Aden this year with thousands more preparing to do so. The human cost to this exodus, as well as the potentially destabilizing affects, demand our attention. Finally, Yemen is linked to the Horn of Africa through arms trafficking that violates the U.N. embargo on Somalia and fuels the conflict there.

The threat in northern Somalia is, or should be, more apparent now than ever. Last October, terrorists attacked in Somaliland and Puntland. These are regions—and regional governments—for which we have little in the way of policy. I am not arguing that we recognize their independence, but it is in our national interest to engage them—diplomatically and economically—and to promote stability there. I have spoken frequently, and for years, about the need for a comprehensive policy for the Horn of Africa. Serious attention to the unique conditions in Somaliland and Puntland must be part of that policy.

Meanwhile, the raging conflict in central and southern Somalia is worse than ever, as a beleaguered transitional government fights a strengthened al Shebaab and allied militias. Foreign fighters have come to Somalia to fight alongside al Shebaab, including Americans, one of whom was implicated in the October terrorist attacks. Al-Qaida in East Africa thrives on the instability and has even expanded its support network south, into parts of Kenya. Yet for far too long, our policy toward Somalia has been fragmented or nonexistent. Our counterterrorism approach has been primarily tactical and has failed to confront the reasons why Somalia is not just a safe haven for al-Qaida in East Africa but a recruiting ground for increasing numbers of fighters—Somali and foreign—who are drawn to a conflict that is fueled by local and regional forces. That is why a comprehensive policy must include a serious, high-level commitment

to a sustainable and inclusive peace and why all elements of the U.S. Government need to work together toward common goals.

As in Yemen, the key to a successful strategy is the recognition that destabilizing factors in the region are linked to threats to the United States. Thus, separatism in the Ogaden or Somali region of Ethiopia, the ongoing Ethiopian-Eritrean border disputes, and the ways in which these tensions motivate the policies of these countries toward Somalia must factor into our broader regional strategy. This is complex, to be sure. But we simply have no other choice—we must recognize the complexity, understand it, and devise policies that address it.

This administration has a historic opportunity. And there are indications that lessons are being learned. The Director of the National Counterterrorism Center—whom the President rightly kept on from the previous administration—recently said the following:

> This is a global struggle for al-Qaida, but if we think about it too much as a global struggle and fail to identify the local events that are truly motivating people to join what they view as a global struggle, we will really miss the boat. We have to try to disaggregate al-Qaida into the localized units that largely make up the organization and attack those local issues that have motivated these individuals to see their future destiny through a global jihad banner.

This is the strategic framework that we have been waiting for, and it is encouraging.

But statements such as these are only the beginning. To effectively fight the threat from al-Qaida and its affiliates, we have to change the way our government is structured and how it operates.

First, we need better intelligence. Recent reforms to our intelligence community have focused on tactical intelligence—on ''connecting the dots.'' We have not tackled the gaps in strategic intelligence. We need to improve the intelligence that relates directly to al-Qaida affiliates—where they find safe haven and why. But we also need better intelligence on the local conflicts and other conditions that impede or complicate our counterterrorism efforts. And we need better intelligence on regions of the world in which the increasing marginalization of communities, resentments against local government, or simmering ethnic or tribal tensions can result in new safe havens, new pools for terrorist recruiting, or simply distractions for one of our counterterrorism partners.

Second, we need to fully integrate our intelligence community with all the ways in which our government, particularly the State Department, openly collects, reports, and analyzes information. This integration, which was the goal of legislation that I introduced in the last Congress with Senator Hagel and that twice has won approval from the Senate Intelligence Committee, is a critical component of strategic counterterrorism. Without it, we will never understand the conditions around the world—most of them apparent to experienced diplomats—that allow al-Qaida affiliates to operate, nor will we be able to respond effectively.

Third, this integration of clandestine intelligence community activities and open information gathering must include the allocation of real resources to the right people. This is fundamental. We can no longer afford to have budget requests driven by the equities and influence of individual agencies, rather than interagency strategies. And while Congress should do its part, real reform must be internalized by the executive branch.

Fourth, we need to recognize that when whole countries or regions are off limits to our diplomats, we have a national security problem. We know that regional tensions in Yemen, clan conflicts in Somalia, and violent extremism in Pakistan all contribute to the overall terrorism threat. But if our diplomats can't get there, not only will we never truly understand what is going on, we won't be able to engage with the local populations. In some cases, we can and should establish new embassy posts. For years, I have pushed for such an initiative in northern Nigeria, a region where clashes between security forces and extremists have taken hundreds of lives in recent weeks. In some cases, the security concerns are prohibitive. But there, we cannot just turn our backs; our absence doesn't make the threats go away. Instead, we should develop policies that focus on helping to reestablish security, for the sake of the local populations as well as for our own interests.

Fifth, we need strong, sustained policies aimed directly at resolving conflicts that allow al-Qaida affiliates to operate and recruit. These policies must be sophisticated and informed. We have suffered from a tendency to view the world in terms of extremists versus moderates, good guys versus bad guys. These are blinders that prevent us from understanding, on their own terms, complex conflicts such as the ones in Yemen or Somalia or, to inject two other examples, Mali and Nigeria. They have also led us to prioritize tactical operations—DOD strikes in Somalia, for example—without full consideration of their strategic impact. Conversely, we have viewed regional conflicts as obscure and unimportant, relegating them to small State Department teams with few resources and limited influence outside the Department. This must change. Policy needs to be driven by the real national security interests we have in these countries and regions, and our policies need to be supported by all elements of the U.S. Government. That includes a real recognition that, sometimes, policies that promote economic development and the rule of law really are critical to our counterterrorism efforts, and they need real resources and support from the whole of our government.

Mr. President, after 7 years of an administration that believed it could fight terrorism by simply identifying and destroying enemies, we now have an opportunity to take a more effective, comprehensive, long-term approach. The President, in his speech in Cairo, reached out to Muslims around the world. The Director of the NCTC has stressed the need to address local conditions in the global struggle against al-Qaida's affiliates. The Secretary of State has committed to aggressive diplomacy around the world. And the Secretary of Defense has acknowledged the need to increase the role and resources of other agencies and departments. Now, however, the real work begins. Changing the way the government, and Congress, for that matter, understands and responds to the national security threats facing us will not be easy. But we have no time to wait.

45TH ANNIVERSARY OF THE WILDERNESS ACT

Mr. FEINGOLD. Mr. President, as founder of the Senate Wilderness and Public Lands Caucus, I led a Senate resolution commemorating the upcoming 45th anniversary of the Wilderness Act of 1964. I am delighted the Senate passed this resolution last night, and am very pleased that Senator MCCAIN joined me in leading this effort. I also thank our other colleagues for their support as cosponsors: Senators LAMAR ALEXANDER, EVAN BAYH, MICHAEL BENNET, BARBARA BOXER, SAM BROWNBACK, RONALD BURRIS, ROBERT BYRD, MARIA CANTWELL, BENJAMIN CARDIN, SUSAN COLLINS, CHRIS DODD, DICK DURBIN, DIANNE FEINSTEIN, JUDD GREGG, JOHN KERRY, JOE LIEBERMAN, ROBERT MENENDEZ, JEFF MERKLEY, PATTY MURRAY, MARK UDALL, TOM UDALL, GEORGE VOINOVICH and RON WYDEN.

This Wilderness Act was signed into law on September 3, 1964, by President Lyndon B. Johnson, 7 years after the first wilderness bill was introduced by Senator Hubert H. Humphrey of Minnesota. The final bill, sponsored by Senator Clinton Anderson of New Mexico, passed the Senate by a vote of 73–12 on April 9, 1963, and passed the House of Representatives by a vote of 373–1 on July 30, 1964.

The Wilderness Act of 1964 established a National Wilderness Preservation System ''to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.'' The law gives Congress the authority to designate wilderness areas, and directs the federal land management agencies to review the lands under their responsibility for their wilderness potential.

Under the Wilderness Act, wilderness is defined as ''an area of undeveloped federal land retaining its primeval character and influence which generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable.'' The creation of a

national wilderness system marked an innovation in the American conservation movement—wilderness would be a place where our ''management strategy'' would be to leave lands essentially undeveloped.

The original Wilderness Act established 9.1 million acres of Forest Service land in 54 wilderness areas. The support for wilderness has continued through the 111th Congress with the creation of 52 new wilderness areas in the Omnibus Public Land Management Act of 2009. Today, the wilderness system is comprised of over 109 million acres in over 750 wilderness areas, across 44 States, and administered by 4 Federal agencies: the Forest Service in the U.S. Department of Agriculture, and the Bureau of Land Management, the Fish and Wildlife Service, and the National Park Service in the Department of the Interior.

As we in this body know well, the passage and enactment of the Wilderness Act was a remarkable accomplishment that required steady, bipartisan commitment, institutional support, and strong leadership. The U.S. Senate was instrumental in shaping this very important law, and this anniversary gives us the opportunity to recognize this role.

As a Senator from Wisconsin, I feel a special bond with this issue. The concept of wilderness is inextricably linked with Wisconsin. Wisconsin has produced great wilderness thinkers and leaders in the wilderness movement such as Senator Gaylord Nelson and the writer and conservationist Aldo Leopold, whose ''A Sand County Almanac'' helped to galvanize the environmental movement. Also notable is Sierra Club founder John Muir, whose birthday is the day before Earth Day. Wisconsin also produced Sigurd Olson, one of the founders of The Wilderness Society.

I am privileged to hold the Senate seat held by Gaylord Nelson, a man for whom I have the greatest admiration and respect. He is a well-known and widely respected former Senator and former two-term Governor of Wisconsin, and the founder of Earth Day. In his later years, he devoted his time to the protection of wilderness by serving as a counselor to The Wilderness Society—an activity which was quite appropriate for someone who was also a cosponsor, along with former Senator Proxmire, of the bill that became the Wilderness Act.

The testimony at congressional hearings and the discussion of the bill in the press of the day reveals Wisconsin's crucial role in the long and continuing American debate about our wild places, and in the development of the Wilderness Act. The names and ideas of John Muir, Sigurd Olson, and, especially, Aldo Leopold, appear time and time again in the legislative history.

Senator Clinton Anderson of New Mexico, chairman of what was then called the Committee on Interior and Insular Affairs, stated that his support of the wilderness system was the direct result of discussions he had held almost forty years before with Leopold, who was then in the Southwest with the Forest Service. It was Leopold who, while with the Forest Service, advocated the creation of a primitive area in the Gila National Forest in New Mexico in 1923. The Gila Primitive Area formally became part of the wilderness system when the Wilderness Act became law.

In a statement in favor of the Wilderness Act in the New York Times, then-Secretary of the Interior Stewart Udall discussed ecology and what he called ''a land ethic'' and referred to Leopold as the instigator of the modern wilderness movement. At a Senate hearing in 1961, David Brower of the Sierra Club went so far as to claim that ''no man who reads Leopold with an open mind will ever again, with a clear conscience, be able to step up and testify against the wilderness bill.'' For others, the ideas of Olson and Muir—particularly the idea that preserving wilderness is a way for us to better understand our country's history and the frontier experience—provided a justification for the wilderness system.

I would like to remind colleagues of the words of Aldo Leopold in his 1949 book, ''A Sand County Almanac.'' He said, ''The outstanding scientific discovery of the twentieth century is not the television, or radio, but rather the complexity of the land organism. Only those who know the most about it can appreciate how little is known about it.''

We still have much to learn, but this anniversary of the Wilderness Act reminds us how far we have come and how the commitment to public lands that the Senate and the Congress demonstrated 45 years ago continues to benefit all Americans.

I would like to recognize the following organizations for their efforts to continue protecting our wild places: American Rivers, Alaska Wilderness League, Campaign for America's Wilderness, Earthjustice, Natural Resources Defense Council, Pew Environment Group, Republicans for Environmental Protection, Sierra Club, Southern Utah Wilderness Alliance, and The Wilderness Society.

WOMEN'S EQUALITY DAY

Mrs. MCCASKILL. Mr. President, in observance of the upcoming Women's Equality Day on August 26, 2009, I wish to pay tribute to the women soldiers and civilians of the U.S. Army who serve and defend our great country each day—whether in garrison communities here in the United States, like at Ft. Leonard Wood in my native Missouri, or on the front lines of battle in places like Afghanistan, Iraq, and other places around the world.

Although women did not receive equal treatment or recognition while serving in the military during the Civil War or the wars of the 20th century, they now serve in many roles and capacities in the Active, Guard and Reserve components and perform equally as well as their male counterparts. Today's Army fighting women are critical to the success of the Army's mission, and their sacrifice on the battlefield demonstrates a clear call to duty that transcends any supposed gender limitations.

One such example of this bravery is Silver Star recipient SPC Monica Brown, who, when her convoy was attacked while on patrol in Afghanistan, disregarded a hail of enemy fire that threatened her own life and jumped into action in her role as a medic to pull wounded soldiers to safety and render lifesaving aid to them. I also think about the heroic actions of SGT Leigh Ann Hester, another Silver Star recipient and military police platoon leader. When Sergeant Hester and her fellow soldiers were ambushed south of Baghdad, she bravely led her unit through an insurgent ''kill zone'' and into a flanking position to assault the enemy with fire, killing three insurgents herself.

These acts of selflessness are also mirrored in the spirit of volunteerism and commitment that Army civilian women exhibit as they deploy to combat zones wherever the Army needs them. Like their male counterparts, these women are serving honorably and selflessly as architects, doctors, nurses, lawyers, structural engineers, logisticians, and in scores of other occupational specialties. And like our military women, they do justice to the millions of women who preceded them in history to fight for equal rights for women in America.

As we celebrate the great accomplishments of women in the military on Women's Equality Day, it is imperative that our Nation and leaders continue to evaluate additional opportunities for military service by women. While women have achieved and contributed so much to the Army and the overall military mission, some barriers still exist.

I look forward to a day when more combat aviation and ground occupational specialties will be open to women, for instance. I look forward to a day when there will be more women in the general officer ranks to accompany my good friend GEN Ann Dunwoody, the Army's first and only female four-star general in its entire 234-year history. Our military and government must never slow its commitment to giving women the access to the full range of opportunities that the military has to offer. In doing so, I am confident that these few remaining barriers will fall.

I strongly encourage my fellow members to honor Women's Equality Day on August 26 by thanking the military and civilian women of the U.S. Army and their families of their States for their commitment, bravery and unflinching support to our great Nation.

NATIONAL HEALTH CENTER WEEK

Mr. JOHNSON. Mr. President, today I wish to recognize the week of August 9, 2009, as National Health Center Week. National health centers provide care to 18 million people a year throughout the United States, through services at Community, Migrant, Homeless and Public Housing Health Center delivery sites. I wish to take the opportunity in a week dedicated to these sites to promote awareness on the expansive role they play in the health care of some of our Nation's most underserved citizens. It is important to recognize that at a time when health care costs have increased considerably across the country, these health centers have continued to serve an increasing number of patients without compromising the quality of care.

The Community Health Center Program, which operates in communities that are designated as medically underserved, has played a particularly important role as a health safety net provider in my State of South Dakota. Significant barriers limit access to quality health care for thousands of South Dakotans. The successful efforts of our State's community health centers have helped reduce many of these barriers by providing quality care to our State's low-income citizens. These health centers provide onsite dental, pharmaceutical, mental health, and substance abuse services that are often hard to come by in rural communities. In South Dakota, more than 50,000 patients received care in 2007, 40 percent of whom were uninsured and an additional 25 percent were covered under Medicaid.

I strongly support this model of health care delivery and commend the hard work of those in South Dakota and across the Nation in providing accessible, high-quality health care to those most in need.

WIPA AND PABSS REAUTHORIZATION ACT OF 2009

Mr. BAUCUS. Mr. President, I urge the Senate to pass by unanimous consent the WIPA and PABSS Reauthorization Act of 2009—H.R. 3325—which was passed recently by the House of Representatives. The bill will extend, for 1 year, two programs that provide important assistance for Social Security and supplemental security income, SSI, disability beneficiaries who would like to return to work.

Both of these programs were included in the Ticket to Work and Work Incentives Improvement Act of 1999, which passed Congress with bipartisan support. Under the Work Incentives Planning and Assistance, WIPA, program, the Social Security Administration, SSA, funds community-based organizations to provide personalized assistance to Social Security and SSI disability beneficiaries who want to work, by helping these beneficiaries understand SSA's complex work incentive policies and the effect that working will have on their benefits. This program can help to reduce the fears many beneficiaries have about attempting to return to work.

Under the Protection and Advocacy for Beneficiaries of Social Security, PABSS, Program, SSA awards grants to protection and advocacy systems to provide legal advocacy services that beneficiaries need to secure, maintain, or regain employment. The PABSS Program also provides beneficiaries with information and advice about obtaining vocational rehabilitation and employment services.

The Finance Committee and other committees in Congress have received testimony from disability advocates and other stakeholders about the importance of these programs to increasing employment among disability beneficiaries.

The Social Security Administration is currently authorized to spend $23 million annually from its administrative budget to fund the WIPA Program, and $7 million annually to fund the PABSS Program. However, the authorization for both programs expires on September 30, 2009.

This bill will extend the WIPA and PABSS Programs for 1 year, with no changes, while the relevant committees in Congress consider a longer term reauthorization. This 1-year extension will ensure that these programs can continue to provide disability beneficiaries with the assistance they need to return to work.

I thank my colleagues for their support for temporarily extending these important programs.

SNAKE HEADWATERS WILD AND SCENIC DESIGNATION

Mr. BARRASSO. Mr. President, I wish to speak on the Craig Thomas Snake Headwaters Legacy Act of 2008.

Shortly before Craig Thomas passed away, he introduced legislation, S. 1281, to protect the Snake River headwaters. His goal was to designate hundreds of miles of river in northwest Wyoming as wild and scenic. At the time, Senator Thomas stated that this designation would be a ''badge of honor'' for these rivers.

On May 15, 2007, the Senate Committee on Energy and Natural Resources Subcommittee on National Parks held a hearing on S. 1281. Senator Thomas invited Jack Dennis, a world renowned fly fisherman, to testify in support of the bill.

During his testimony Jack Dennis eloquently made the case for wild and scenic designation stating ''Without hesitation, the rivers and streams of the Snake River Headwaters are the most stunningly beautiful in the world.'' Jack further testified that ''To walk these rivers and hear the music of the rivers, to see beavers swimming out of the lodge, to watch an elk come down to the river to drink at sunrise—these rivers touch all our souls.''

On Sunday, August 9, 2009, I will be participating in a community event in Jackson Hole, WY, to officially designate the Snake River headwaters as wild and scenic. I will be joining Susan Thomas, Jack Dennis, and hundreds of grassroots organizations and individuals who never gave up.

Like so many others, the river touched Craig's soul. This coming Sunday, we will finish the task Craig Thomas started. It is a remarkable accomplishment—388 miles of river dedicated as wild and scenic, 388 miles of pristine water that will be protected for the enjoyment of future generations.

What an honor indeed.

SENATE EMPLOYEES' CHILD CARE CENTER

Mr. BENNETT. Mr. President, I rise today to recognize the Senate Employees' Child Care Center for 25 years of service.

The Senate Employees' Child Care Center opened its doors on February 27, 1984, as the first childcare center on Capitol Hill. Its successful opening is attributed to the dedication and hard work of Senate Members, employees, and their families.

The center has grown, much like the children and Senate families it has served. On opening day, the center had 27 children enrolled from the ages of 18 months to 5 years. By comparison, the center today has grown to a full enrollment of 68 children from the ages of 10 weeks to 5 years.

The center first opened in what was known as the Immigration Building and is now the Capitol Police headquarters. As it outgrew that space, a new facility was constructed nearby. Enrollment and growth continued, necessitating the construction of a new facility in December of 1999.

While many things have changed over the past 25 years, such as the location, number of children served, and the faces of teachers and families, one constant is this: the Senate Employees' Child Care Center remains a first-class facility. Families continue to appreciate the comfort of knowing their children are in a safe and enriching educational environment. In fact, many families refer to the Center as a ''school'' rather than a daycare facility.

We and our staffs strive for excellence. The Senate Employees' Child Care Center does the same. In 1989, it became the first center in Washington, DC, to achieve accreditation from the National Association for the Education of Young Children, NAEYC. This accreditation is the ''gold standard'' for early childhood education, and the center has maintained it continuously since 1989.

As in the early days, families with children enrolled in the center are encouraged to be involved in its daily operations. Many families spend their lunch hours doing ''nap duty,'' others

serve on the Board of Directors, and others assist with special classroom projects. Parental involvement fosters a cooperative environment and further contributes to the center's excellence.

The greatest asset of the Senate Employees' Child Care Center is its teachers. One of the original teachers, Phyllis Green, continues to provide lessons that will serve children well throughout their lives. She is one of many dedicated professionals who connect with both children and parents in very special ways.

I offer my congratulations to the Senate Employees' Child Care Center on achieving this milestone and best wishes for many more years of service.

Mr. SCHUMER. Mr. President, I rise to join my colleague Senator BENNETT to recognize the 25th anniversary of the Senate Employees' Child Care Center's founding and to congratulate the SECCC on its many years of service to the Senate.

The original families and those who have followed share many memories of their experiences with the SECCC. They recall the development of a playground in what is now Senate Parking Lot 19; the center's role in the creation of the congressional holiday ornaments; the day the children watched as the sculpture Mountains and Clouds was installed in the Hart atrium; and the annual Fourth of July parade, with the children dressed in red, white and blue as they march from the child care center to the Hart Office Building. Most important, they speak of the growth and development of their children.

The Senate is well served by the Senate Employees' Child Care Center and the staff members who work there. I want to thank the center for its 25 years of service to the Senate.

BASEBALL HALL OF FAME INDUCTEE JAMES EDWARD RICE

Mr. GRAHAM. Mr. President, today I ask the Senate to join me in recognizing James Edward Rice on the occasion of his induction into the National Baseball Hall of Fame on July 26, 2009. Mr. Rice is a superior athlete who has made his home State of South Carolina very proud.

Mr. Rice was elected in this, his 15th and final year on the Baseball Writers Association of America, BBWAA, election ballot, with 76.4 percent of the vote. He becomes the third player in Hall of Fame history to be elected by the BBWAA in his final year of eligibility, and he is certainly deserving of this honor.

Jim Rice spent his entire 16-year big league career playing with the Boston Red Sox. Fenway Park was his second home, and he certainly gave the Red Sox organization and fans plenty to cheer about. Mr. Rice played his first game for the club in late 1974, and his career took off shortly thereafter. In 1975 he ended the season as runner-up for Rookie of the Year, second to his own teammate Fred Lynn. After overcoming injuries, Mr. Rice finally settled in and was selected as the American League Most Valuable Player, MVP, in 1978, and throughout the rest of his career he finished in the top five of the MVP selection five other times.

An Anderson, SC, native, Mr. Rice, or ''Ed'' as he was known growing up, found himself in a challenging time of social change. After the public schools were integrated shortly before his senior year of high school, he was sent into a new environment where, according to Alexander Edelman with the Baseball Biography Project, his ''engaging personality and gentle charm won over most . . . and helped ease the racial tension that accompanied integration.'' He quickly made quite an impact in the athletic arena as a member of the football, basketball, and baseball teams. He was an all-State kick returner, defensive back, and wide receiver. But it was his prowess on the baseball diamond that caught the most attention, and he was drafted in the first round of the amateur entry draft at only 18 years old.

Mr. Rice was an incredible asset to the Boston Red Sox, but perhaps his most memorable moment with the team had nothing to do with his abilities on the field. On August 7, 1982 Jonathan Keane, a 4-year-old boy attending his first game in Fenway Park, was sitting along the first base line when he was struck in the head with a line drive foul ball. Alarmed that no one was reacting quickly enough, Jim Rice leapt from the dugout and into the stands. Instinctively he picked up the unconscious boy and, cradling him, ran straight to the clubhouse where the trainer and ambulance were waiting. Tom Keane, Jonathan's father who was with him that day, recalled the event and noted, ''In times like that, you really see the quality of the character of the people involved. Jim Rice is a really humble guy. He doesn't want to take credit for doing anything out of the ordinary . . . I think that's an understatement of what he did that day. He may very well have saved my son's life.''

Jim Rice played his final game with the Boston Red Sox on August 3, 1989, but returned to the organization from 1995 through 2000 as a hitting coach. On November 1, 1995 he was inducted into the Red Sox Hall of Fame in its inaugural class. His plaque can be viewed at Fenway Park along with two of his Silver Slugger awards. In 1999, Sports Illustrated honored him as the ninth best athlete of the 20th Century to come out of South Carolina. And in 2001 he was inducted into the Ted Williams Hitters Hall of Fame.

Mr. Rice and his wife Corine now reside in Andover, MA, where they have raised their two daughters Carissa and Chancey. And though he is not permanently in South Carolina, his presence is still felt in Anderson through a community center named in his honor, the Jim Ed Rice Center.

I ask that the Senate join me in honoring him for his impressive athletic career and newest honor as an inductee into the National Baseball Hall of Fame.

HONORING THE 437TH AIRLIFT WING

Mr. DEMINT. Mr. President, Senator GRAHAM joins me today to congratulate the men and women of the 437th Airlift Wing stationed at Charleston Air Force Base, SC, for their outstanding service in defending our Nation and for their great achievements at the Air Force's Air Mobility Command Rodeo Competition.

It is been 8 years since the attacks of 9/11, and the record of continuous operations for the 437th is an inspiration to us all. Shortly after the attacks, Charleston leapt into action, dropping humanitarian aid into Afghanistan only hours after bombers began pounding al-Qaida and Taliban insurgents. Later, when we put boots on the ground, the 437th led the first-ever C–17 combat dirt landing in the barren wilderness of Afghanistan to establish a critical forward operating base. Since then, Team Charleston has led the airlift of MRAPS to protect our troops in Iraq and Afghanistan and performed some of the largest training exercises in Air Mobility Command. Over the years, they have delivered a staggering 1.3 billion pounds of cargo to support our troops and provide relief for friends and allies around the world.

However, when the 437th is not saving lives and delivering freedom, they are winning awards and bringing home trophies. We are especially proud of the 437th's accomplishments at the 2009 Air Mobility Command Rodeo Competition. The 437th competed with more than 100 teams and 2,500 people from the United States Air Force and allied nations. They led the C–17 aircrew competition and finished first in two out of three competitions, earning trophies for ''Best C–17 Air Refueling Crew'' and ''Best Short Field Landing Crew.'' Furthermore, Team Charleston continued their distinguished record of world-class maintenance and added ''Best C–17 Preflight Team'' to their long list of awards. These are impressive achievements that bring great credit upon the 437th.

We recognize the outstanding achievements of Rodeo team members CPTs Robert Lowe, Joseph Beal and Jonathan Magill; MSgt Ricky Clark; Technical Sergeants Harold Bordeaux, Paul Eaton, and Richard Pate; SSgts Jessy Martin, Brian Parmerter, Hector Schunior, Nicholas White, John Paull, and Veronica Bankey; Senior Airmen Dennis Adams and Joshua Ramalia; and Airman First Class Daniel Jones.

I know the Wing is especially proud of the Rodeo team, but on behalf of the people in Charleston, the State of South Carolina, and our great country, Senator GRAHAM and I salute the outstanding work of the 437th.

We are amazed by their stories and humbled by the immense burdens they have shouldered. Their dedication, and their families' sacrifices are an inspiration, and our country owes them a debt of gratitude for their patriotic service.

AFGHAN NATIONAL SECURITY FORCES

Mr. KAUFMAN. Mr. President, we have embarked on a new course in Afghanistan. The plan has 21,000 troops and trainers engaged primarily in clearing the Taliban in Kandahar and Helmand provinces. We know from counterinsurgency doctrine that we must now hold the areas that have been cleared.

I speak today on the need for expanding the Afghan National Army and Police. They must do the holding of those areas taken by our forces so that we can build a capable, accountable, and effective Afghan Government. The August 20 elections will be a crucial milestone in Afghanistan's democratic development, and the international community stands with the Afghan people as they exercise their freedom to cast votes at more than 7,000 polling stations.

Safeguarding the election is a test for the Afghan security forces, which are leading efforts to secure the polling stations per the plans of the Afghanistan Elections Commission. At the same time, the United States and other international partners will continue to support Afghan forces. We have increased troop levels this summer, in part, to help the Afghan National Army and Police prepare for the election.

As we send an additional 21,000 troops and trainers and hundreds of civilians into Afghanistan, we must do everything in our power to protect these brave men and women in a hostile environment. We must be effective and efficient in clearing and holding against insurgents. And we must ensure we have the necessary civilian resources to build a secure and stable environment, in which Afghans can sustain rule of law and promote good governance.

These goals are critical to our shared counterinsurgency mission. Success will not be easy or without a great cost or burden. It will continue to require patience, determination, and an enduring American commitment.

As GEN Stanley McChrystal affirmed when he assumed command of American and International Security Assistance Force, or ISAF, troops in Afghanistan, ''the Afghan people are at the center of our mission. In reality, they are the mission. We must protect them from violence, whatever its nature.'' The Afghan people are at the heart of our operations, and the first principle of protecting the population in counterinsurgency is building a strong indigenous security force that can assume control and take the lead.

Our military, civilian, and political leadership agree that enhancing the capacity and capability of the Afghan National Army and Afghan National Police is key to an eventual U.S. withdrawal from Afghanistan. Before we move in this direction, however, we must consider what additional resources are required to help the ANA and ANP become self-sufficient.

Current estimates indicate the Afghan Army is one fourth of the size of the Iraqi Army, where the ongoing insurgency now pales in comparison to Taliban-led violence in Afghanistan. This is woefully inadequate if we hope to meet Afghanistan's short-term and long-term security requirements. The same can be said for the Afghan police, which provides the essential services of border security, law enforcement, coordinating counternarcotics, and serving as a paramilitary force.

The Afghan National Army and Police must work in tandem on counterinsurgency—one cannot succeed without the other—with the army ''clearing'' the land of insurgents, and the police ''holding'' to ensure stability. Progress in ''building'' economic development and governance cannot be sustained until the security forces succeed in their mission.

Current plans to expand the Afghan National Army to 135,000 and the Afghan National Police to 80,000 by 2011 represent a positive step in the right direction but still fall short of the necessary requirements. These numbers are insufficient for the Afghans to independently maintain security and establish rule of law in the long-run, and therefore should be considered critical milestones, but not ceilings, for the training mission.

According to the Army/Marine Corps Counterinsurgency Manual drafted by General Petraeus in 2006, the requisite number of security forces should not be defined by the number of insurgents. Rather, the size of host nation security forces should be commensurate with the size of the population. This closely parallels the methodology used to calculate the adequate size for peacekeeping operations, which are determined by the number of inhabitants. Counterinsurgency doctrine, as delineated by General Petraeus, recommends a minimum target ratio of 20 counterinsurgents for every 1,000 residents.

According to this ratio, in order to secure Afghanistan—a country of more than 33 million—a minimum of 600,000 security forces are needed, which includes the army and police. Current targets for the ANA and ANP barely reach 40 percent of this minimum requirement. It is clear that these numbers should be increased, and this is why I support doubling the target number for the ANA from 135,000 to 250,000, and increasing the ANP from 80,000 to 150,000.

As Secretary Gates has outlined, we must better prepare to fight the wars we are in, and recognize that that irregular warfare is not just a short-term challenge. Rather, it is a long-term reality that requires a realignment of both military strategy and spending. And as we continue to engage in counterinsurgency, we must recognize those elements of our strategy which are essential to our mission. Chief among them remains building the indigenous capacity of the host nation security forces.

It is in this regard that I strongly urge my colleagues to join me in supporting an increase in the size of the Afghan national security forces. While this may require additional trainers, troops, and resources in the short run, it is the only way to ensure the long-run stability of Afghanistan.

WYOMING'S WORLD WAR II MEMORIAL

Mr. BARRASSO. Mr. President. I wish today to talk about a special group of people who live and work with us, side by side in our hometowns across America. The terrible days of the Second World War produced an entire generation of men and women who answered the call to duty to defend freedom and defeat tyranny in far off lands across both oceans. They left their homes and families, endured great trials, and gave so much of themselves for so many of us in the most difficult of circumstances.

These brave men and women served in our Nation's darkest hour. And then they came back home. They went back to work, to school, bought homes, raised families, and continued to build our Nation. Today they are our friends and neighbors, our parents and grandparents, our fellow Americans. And we owe them such a tremendous debt of gratitude.

Mr. President, on August 15, 2009, the State of Wyoming will dedicate its World War II Memorial at the Wyoming Veterans Memorial Park in Cody, WY. And I am honored to be here on the floor of the Senate to personally give thanks to the many men and women and their families who made such great sacrifices on our behalf during the terrible days of World War II.

The memorial being dedicated and the ceremony itself required a major commitment on the part of those who worked to successfully complete the project. This includes veterans, their families, friends, admirers, and all of the people of Wyoming whose hard work and generous contributions made this memorial possible.

The Wyoming World War II Memorial is a fitting tribute to all those of the Greatest Generation who gave so much for our country. It is because of them that we all live our lives in freedom and are able to exercise the rights guaranteed to us in our Constitution every day. We are the grateful beneficiaries of their sacrifices.

My father was a veteran of World War II. He fought in the Battle of the Bulge. My wife Bobbi's father was in both World War II and Korea. My dad always told me that I should thank

God every day that I live in America and how fortunate I was. He was right. This is the greatest country on Earth. And it is because of the brave actions of so many of our fellow countrymen.

The Wyoming Congressional delegation had the privilege of greeting a group of Wyoming's World War II veterans on the National Mall this spring. They made the Wyoming Honor Flight trip to Washington from Wyoming to visit the World War II Memorial. Wyoming's World War II veterans are heroes in every sense of the word. They quite literally saved the world. Let Wyoming's new memorial be a monument of our endless thanks for all they have secured for us. All of Wyoming, and indeed America, says thank you.

ADDITIONAL STATEMENTS

COMMENDING SALLY HUNTER

• Mr. CORNYN. Mr. President, today I wish to recognize the distinguished service of an outstanding Texan, Sally Hunter. Ms. Hunter is the recipient of the 2009 Preserve America Elementary History Teacher of the Year for Texas. This award recognizes outstanding American history teachers from elementary school through high school, as well as the crucial importance of American history education. One teacher from each State is chosen from thousands of exceptional teachers to receive this prestigious award.

For almost 30 years, Sally Hunter has served the students of Texas as an instructor, mentor, and friend. Through recognizing and cultivating untapped potential within students, she has inspired countless youth to be men and women of character, vision and dedication.

Ms. Hunter began serving students as an elementary teacher in Austin ISD in 1980, and has taught fourth grade since 1995. Since that time, she has positively impacted the lives of thousands of students by making history personal for them. In keeping with her great love of Texas history, Ms. Hunter has traced her very own family back to the 1850s when they were neighbors of Sam Houston. Ms. Hunter continues to encourage and foster the same love of research and history in her own students so that they may learn more about their own family history.

Just 2 days after the fire that destroyed the Governor's Mansion in Austin, Ms. Hunter began to write the curriculum This House is Your House in order to ensure that students would learn about the richness of the mansion's history. Ms. Hunter's program is being used in classrooms across Texas, and continues to illustrate the mansion's tangible connections to people of the past, while challenging students to contribute to restoration and preservation.

Ms. Hunter has a gift for recognizing the unique needs of students and has never failed to commit her time, energy, and resources to meeting their needs. Ms. Hunter's love for teaching has made a lasting impact on her students, and she exemplifies an outstanding teacher and historian.

Sally Hunter's years of selfless service and unwavering devotion to the improvement of her students' lives have earned the respect of countless Texans. I thank Sally for her commitment to excellence in teaching the future leaders of Texas and send my best wishes for the years ahead.•

100TH BIRTHDAY OF ETHEL SCHWENGEL

• Mr. HARKIN. Mr. President, today is the 100th birthday of a very special Iowan and a wonderful friend, Ethel Schwengel. One century ago today, Ethel was born on her parents' family farm near Purdin, MO. This is a bit premature, but I should also note that we are on the cusp of yet another remarkable milestone. On August 15, Ethel and her family will celebrate the 78th anniversary of her marriage to the late Frederic Schwengel, who represented Iowa in the United States House of Representatives from 1955 to 1965 and from 1967 to 1973.

The Schwengels married in Unionville, MO, in 1931, and moved to Davenport, IA, in 1937. There, Ethel worked as an educator, and was active in many civic organizations, including Girl Scouts and the YWCA.

When her husband served in the Iowa House of Representatives from 1944 to 1954, and later during his long service in the U.S. House, Ethel became a respected and beloved presence in her own right.

Ethel was always actively engaged in her husband's campaigns. Meanwhile, on the home front, she was a strong stabilizing influence in the Schwengel household during his inevitably frequent absences. She was a tireless and gracious hostess, often responding to last-minute calls from her husband to set additional places at the table for colleagues and visitors.

During their years in the Nation's Capital, the Schwengels hosted ''Washington Week'' for an Iowa State University professor and two of his students, one of whom was a very young and green TOM HARKIN. I will never forget their kindness and hospitality during that very eventful week.

Ethel joined in her husband's passion for collecting antiques as well as Abraham Lincoln memorabilia, which she displayed beautifully in the Schwengel house. Another highlight of their home was the Ethel's garden, which featured her prized tomatoes and Fred's beloved rhubarb—and little bit of Iowa right in suburban Washington. Ethel was especially proud of her dazzling display of azaleas each spring.

Across more than six decades of marriage, Ethel and Fred Schwengel were blessed with a large extended family. They raised two children, Frank and Dorothy. Moreover, immediately after marrying, their household became home to Fred's brother Forrest and sister Helene. Later, Fred's widowed mother joined the household, as did Ethel's mother.

Following the Second World War, the Schwengels opened their home in Davenport to 11 displaced persons from Poland, helping them to learn English, find jobs, and become U.S. citizens.

In 1966, their grandson, Robert Schwengel, joined the household. When he left for college in 1979, it was the first time in 48 years of marriage that Ethel and Fred Schwengel were without extended family members in their home.

After Congressman Schwengel retired in 1973, he and Ethel continued to make their home in Arlington, VA. Mr. Schwengel helped to found the U.S. Capitol Historical Society in 1962, and headed that organization as its president until his death in 1993. Ethel remains a strong champion of the Historical Society and a member of its Honorary Board of Trustees. Their grandson, Dr. Robert Schwengel of Providence, RI, is a member of the society's active Board of Trustees, and their son-in-law, Neale Cosby, is its treasurer as well as a trustee.

Since that summer many years ago, when the Schwengels took me into their home for a very memorable ''Washington Week,'' Ethel has been a very dear friend.

I am pleased to note that, for the big celebration today, she will be joined by family members and friends at her current residence in Arlington. In addition, there will be a reunion picnic on Saturday at her daughter and son-in-law's home at Mason Neck, VA. Ethel will be joined at these celebrations by her sister, Florence, age 98; her children and their spouses; five grandsons and spouses; nine great grandchildren; one niece; two nephews; and four great nephews. Clearly, this is a woman of great wealth—the kind of wealth that really matters.

I congratulate Ethel Schwengel on this great milestone. She has brought light into the lives of so many of us in Iowa and here in the Washington area. One hundred years since its birth, that light continues to shine with a very special radiance.

Happy birthday, Ethel!•

50TH ANNIVERSARY OF TROUT UNLIMITED

• Mr. LEVIN. Mr. President, it is with great pride that I pay tribute to Trout Unlimited, a national conservation organization established in my home State of Michigan. This exceptional organization was founded in 1959 on the banks of the Au Sable River, near Grayling, MI, by 16 concerned Michigan anglers. These anglers, who met in the home of George Griffith, sought to ensure the continued and long term health of trout, their habitat, and the sport of angling. Today, Trout Unlimited boasts more than 150,000 members

in approximately 400 chapters throughout the United States, including 23 chapters in Michigan.

The founders of Trout Unlimited, or TU, were united by their love of trout fishing and by their growing discontent with the State of Michigan's practice of stocking its waters with hatchery-raised fish. Driven by the belief that Michigan's trout streams could produce fish far superior in both size and fight to these ''cookie cutter trout,'' in 1962–63, TU prepared its first policy statement on wild trout, which persuaded the Michigan Department of Natural Resources to curtail ''put-and-take'' trout stocking and to start managing for wild trout and healthy habitat. Buoyed by this success, anglers subsequently founded TU chapters in Illinois, Wisconsin, New York, and Pennsylvania with the mission of conserving, protecting and restoring North America's coldwater fisheries and their watersheds.

Indispensible to the success and strength of Trout Unlimited are the thousands of dedicated members and volunteers. TU members have spent countless hours restoring trout and salmon habitat, and some of the most visible effects have been on hundreds of watersheds nationwide. In addition, these members have provided the knowledge and leadership necessary to improve environmental policy on the local, state and national level and to carry out TU's ambitious conservation agenda.

Many have contributed significantly to the success of Trout Unlimited over the past fifty years. Trout Unlimited has been an important, vigilant and effective advocate for coldwater resources in Michigan and across the country. I know my colleagues join me in offering gratitude and appreciation to Trout Unlimited for a job well done. Protecting our natural resources and waterways for future generations is a noble endeavor, and I look forward to another 50 years of responsible environmental stewardship.●

REMEMBERING REBECCA JANE DALTON WEINBERGER

● Ms. SNOWE. Mr. President, today I wish to pay tribute to a great fellow Mainer and a wonderful friend who passed away recently—Rebecca Jane Dalton Weinberger. Today, I would like to take a few moments to offer a few reflections of my own on Jane's life, as well as include some of the thoughts that her exceptional son, Caspar Weinberger, Jr., has shared regarding his beloved mother—and I will ask that Mr. Weinberger's statements upon Jane's passing be printed in the RECORD in their entirety.

Born in Milford, ME, Jane was a notable figure in our State. A writer and publisher of outstanding children's stories, a tireless community volunteer, a woman who in 1942 met—on a troop ship bound for Australia—a man then referred to as U.S. Army CAPT Caspar W. Weinberger, who would become her husband for 63 years not to mention Secretary of Defense under President Ronald Reagan!—and above all, an extraordinary mother, grandmother, and great-grandmother Jane Weinberger was truly beloved by many and will be profoundly missed by all of us who were fortunate to know her.

Inseparable throughout their 63 years of marriage, Jane and Caspar are indisputably now reunited—together once again—their rightful state of being given all that they meant to each other not only in love but in life, and all of its trials and triumphs. Jane and Cap were passionately devoted to one another—each drawing strength and inspiration from the other's indomitable spirit. In fact, her son tells of how, and I quote, ''it was my mother who . . . almost literally pushed him into his first political campaign as the Republican candidate for the State Assembly from San Francisco's 21st Assembly District . . . she did all the campaign things: running the campaign office, calling on potential voters, handing out bumper stickers and posters. Jane was a great organizer, and innovator.'' And, I would add that they both served as each other's closest confidante and friend—as well as being husband and wife.

And it was Jane who did Caspar the tremendous favor of introducing him to the great State of Maine. Of course, since Jane was a native Mainer through-and-through, as I mentioned at the memorial service for Cap Weinberger in 2006, many back home still referred to him as ''Jane's husband!'' After all, as anyone familiar with Maine understands, you can never get ''top billing'' unless you were actually born there—even if you were pivotal in the downfall of the Soviet Union and the end of the Cold War!

And Jane was a force of nature in her own right. In the words of Caspar Weinberger, Jr., ''My mother . . . helped her family hold together and prosper often under the most trying conditions that can only be truly understood by those who achieve fame and the scrutiny which go with holding high office in America. She was down to earth and sensible, and she was also a woman of great dignity, beauty and courage . . . She was instrumental in helping her husband win elective office . . . and later (was) a well-known and admired Washington, DC hostess, while Cap was serving in cabinet positions to three different U.S. presidents throughout the 1970's and 80's.''

Jane was not only unfailingly dedicated to her family—raising her sons, Caspar and Arlin—but also to her community and the world around her. Again, to quote Mr. Weinberger, she was ''certainly civically minded—she was a volunteer in many an organization for the poor and needy.'' She ''volunteered for many civic duties and charities and writing children's stories,'' and was a former chairwoman of the Folger Shakespeare Library in Washington, DC; served on the board of Amherst College in Massachusetts; and for many years served on the Board at Jackson Laboratories in Bar Harbor. As Cap Weinberger, Jr. wrote, she believed ''that it was most important to contribute to their good efforts in attempting to defeat cancer in every form once and for all.''

Once the Weinbergers had arrived back in Maine after their years in Washington, Jane also started a publishing business she had long envisioned, which was chiefly focused on children's books and which she ran for more than 20 years with more then 120 titles. And her company came to be acknowledged, as her son put it, as ''not the biggest but among the very best.''

On a more personal note, certainly, my husband Jock McKernan—Maine's former Governor—and I have deeply treasured our friendship with Jane and Cap. Every time we drive by the home they cherished on Somes Sound, called ''Windswept House'' in Mount Desert, ME, I am reminded of the 80th birthday party that Jane threw for Cap. And what a wonderful night that was—under the stars of a spectacular Maine summer sky—with Secretary Colin Powell and so many others joining in the festivities and the laughter. In Caspar Weinberger, Jr.'s words.

> She arranged for a startling and magnificent round of fireworks in his honor. Strangely, twelve years later on the night before her passing, my wife and I witnessed another stunning display of fireworks put on just across the inlet to Somes Sound by a neighbor celebrating a wedding or other special event. While these lights were not really designed in her honor, to us it was highly symbolic, as if her time of respect had come and was recognized. In my view, as well it should have been, for she was most definitely the power that guided my father to the heights of American government.

Mr. President, Jane Weinberger achieved her own formidable heights throughout her remarkable lifetime, and we have truly lost a leading light in Maine. My profound sympathies go out to Caspar and Arlin as well as Jane's sister, Virginia, and her three grandchildren and five great-grandchildren at this most difficult of times. Jane will always be in the hearts of those whose lives she touched so deeply.

Mr. President, I ask to have printed in the RECORD Mr. Weinberger's statements to which I referred.

The information follows:

MRS. CASPAR W. (JANE) WEINBERGER DIES

Jane Dalton Weinberger, 91, wife of former President Ronald Reagan's Secretary of Defense, the late Caspar W. Weinberger, died last night, July 12, 2009 in Bar Harbor, Maine. For the last six months, she had been in declining health and was living in a nursing home near her home known as ''Windswept House'' in Somesville, Maine on Mount Desert Island.

Born Rebecca Jane Dalton in Milford, Maine, on March 29, 1918, Mrs. Weinberger became an Army nurse at the outbreak of World War II. While aboard a troop ship headed to Australia in 1942, she met her husband-to-be, U.S. Army Captain Caspar W.

Weinberger. They were married in Sydney and remained together for 63 years until Caspar's death in late March, 2006.

While Cap (as Caspar was widely known) pursued a career first as a San Francisco, California lawyer and then a public statesman, Jane dedicated herself to raising a family, volunteering for many civic duties and charities and writing children's stories. She was instrumental in helping her husband win elective office as a California assemblyman in the 1950's and later as a well-known and admired Washington, D.C. hostess, while Cap was serving in cabinet positions to three different U.S. presidents throughout the 1970's and 80's.

She was a former chairwoman of the Folger Shakespeare Library in Washington and served also on the boards of Amherst College in Massachusetts and the Jackson Laboratory in Bar Harbor, ME. In her early years she was a volunteer at St. Luke's Hospital in the San Francisco Bay Area, and a member of that city's venerable Century Club.

After leaving government service in 1987, Cap and Jane retired to their summer home, Windswept House in Mt. Desert, ME. Cap went on to be the Publisher of Forbes Magazine and then became Chairman of the Forbes Group. Jane started and operated her own book publishing house, Windswept House Publishers, for the next twenty years, producing over 100 titles of mostly children's books.

Jane and Caspar had two children: daughter Arlin Weinberger, now residing in Marin County, California and son Caspar Jr., presently residing with his wife in Mt. Desert, ME. Jane also leaves her sister, Virginia Garceau of Brewer, ME, daughter-in-law Mavis, three grandchildren, Louise Murray, James Weinberger, Rebecca Werber, and five great grandsons.

''My mother was a wonderful woman who helped her family hold together and prosper often under the most trying conditions that can only be truly understood by those who achieve fame and the scrutiny which go with holding high office in America. She was down-to-earth and sensible, and she was also a woman of great dignity, beauty and courage. She was a wonderful hostess, gave great parties and donated much of her time to helping others in San Francisco, Washington, D.C. and Maine. She was always a loving wife to her husband before his passing in 2006. All of her family will miss her very much, but are glad that she has finally reached a lasting peace,'' her son Caspar Weinberger, Jr. said today.

In line with her wishes, there will be no formal services for Jane; her ashes will be scattered on the gardens she loved and tended at her Windswept House. The family asks that in lieu of flowers and cards, donations be made to the Weinberger Foundation, the family non-profit organization, at P.O. Box 860, Mt. Desert, ME 04660.

REBECCA JANE DALTON WEINBERGER (1918–2009)

DEAR EDITOR, I write this letter today with a heavy heart, but also with a sense of pride and certain knowledge that now the journey of my dear parents is finally complete. Rebecca Jane Dalton Weinberger, wife of the late great American statesman, and my father, Caspar W. Weinberger, died late last night, Sunday July 12, at Sonogee Nursing Home in Bar Harbor. The cause was a massive stroke coupled with extreme old age.

First and foremost, she was my mother. For all my life, I was close to her and we felt a camaraderie shared by being in the orbit, as well as in the shadow, of a highly famous man. Rebecca Jane Dalton Weinberger was a very strong and yet a most down-to-earth lady of Maine. She was born in Milford, near Old Town, on March 29, 1918. Although she was not into astrology, I am, and believe me my mother was definitely an Aries through and through. By which I mean she was of a fiery temperament, extremely sure of herself, of what was right and what was wrong, but also innovative in spirit and in practice. Aries is the first sign of the Zodiac, symbolizing the initial spark of light and fire. Jane was a good mother, a fine cook, and certainly civically minded: she was a volunteer in many an organization for the poor and needy.

What is it with these special New England genetics that seem to breed so many naturally long-living Maine people? I don't really know; perhaps it is just a real love of life regardless of its pain or pleasure, of which my mother surely knew both. Jane was a gardener but that was the limit of her outdoor exercise. She did enjoy swimming, but hardly on any regular body-building schedule. She drank a lot of wine, and heavier spirits when she was younger, although she always controlled herself with not even a suspicion of intoxication, although I am sure on many occasions she was happily drunk. Nevertheless, she still managed always to look elegant and at ease even under the worst of circumstances and she lived to be over ninety-one years old. Given all that she went through in Cap's last years of suffering (he was on dialysis for three years) especially at his passing in the spring of 2006, it is amazing that she still had most of her wits until the very end. She out-lived her husband by three years and she was a great lady to be around.

From what I know of her early history, my mother found herself born into a quasi-indigent and somewhat dysfunctional family—her father simply left home one day when she was about eight years old and never came back. But Jane did not quit. By early adulthood she had a nursing degree from the Summerville Nursing Academy and World War II was calling for her services. She was sworn in as a Second Lieutenant U.S. Army nurse in 1941 and soon was transferred to the Pacific theater. On her way aboard a ship to care for soldiers in Australia, she met her life-mate. She told me the story once of how a girl friend had said ''Oh, you married some soldier,'' to which my mother responded ''Yes, some soldier!''

And, indeed Army Lieutenant, soon to be Captain Caspar ''Cap'' Weinberger was that and more. A lifetime public servant, he was a California assemblyman who went on to serve in many U.S. cabinet posts and eventually became President Ronald Reagan's Secretary of Defense. Cap and Jane married in Australia in 1942. My sister arrived first in 1943, while I waited until 1947. Through circumstance—once married and pregnant, Jane was sent by the Army, per regulations, back to the States—my sister, Arlin, was born in Old Town, Maine, while I became a child, like my father, of the West Coast, a native San Franciscan. Actually, we lived first in Sausalito, California, across the Bay from San Francisco. In 1949, we moved to the city, living in what is now known as the Pacific Heights neighborhood. My father was a law clerk in the city and then eventually a young lawyer in a corporate law firm.

My father was generally shy and not very forthcoming in those days, but he was also bored with the law. In High School he had been fascinated by the U.S. Congressional Record, and the daily transcript of Congress in action. Today, he would have been known as a ''wonk,'' a bookish and slightly withdrawn man. Nevertheless, he had served as Student Body President at San Francisco's Polytechnic High, located right next to the old Kezar Stadium in Golden Gate Park. Then he had gone on to Harvard and the Harvard Law School. Yet, it was my mother who warmed him up to, and then almost literally pushed him into his first political campaign as the Republican candidate for the State Assembly from San Francisco's 21st Assembly District. It was victorious and he served three consecutive two-year terms.

She did all the campaign things: running the campaign office, calling on potential voters, handing out bumper stickers and posters. Jane was a great organizer, and innovator. She could make stuff out of nothing, and she was a good writer as well. She was regularly published in the smaller publications of the day and one of her stories was called ''Lemon Drop,'' about an elephant, as I recall, and it was republished many times while winning many awards.

In my elementary and high school days in California, Jane was always active with volunteer groups, especially the St. Luke's Hospital Auxiliary. She was a member of the Century Club of San Francisco. I often drove her to meetings at the Club's lovely mansion near the California Street Cable Car line.

Well, boys miss their mothers. I am no longer a boy, of course, although inside I still feel like one, but I shall always feel for my mother and all she went through in the world of politics and government. It was a great journey, with lots of excitement, many highs, but also many lows. Such is the nature of most lives, but my parents' existences were perhaps grander, perhaps more intense than most.

Jane became the Chairwoman of the Folger Library, the great Shakespeare monument and treasure trove of things English, in Washington, D.C. She hosted so many fine parties for pretty much the entire nation's ''A-list'' of actors, politicians, scientists, professors, etc. and I was happy to be in attendance at many of these events, with my lovely wife of many years, Mavis. We met many of the world's most recognizable characters simply because of my parent's associations and as such we were most privileged indeed.

When she left Washington, moving with Cap back to Maine, Jane started a business she had dreamed of running all her life: Windswept House Publishers, a largely children's book publishing house which she ran for over twenty years right from her own home in Somesville on MDI. With over 120 titles, her little company became recognized throughout New England as ''not the biggest but among the very best,'' as more than one reviewer attested.

For many years, Jane served on the Board at the Jackson Lab in Bar Harbor believing that it was most important to contribute to their good efforts in attempting to defeat cancer in every form once and for all. Today, the Weinberger Foundation which I started when Cap died continues to contribute to the Lab in the hope that the goal Jane and so many others dreamed about may one day be reached.

On Cap's 80th birthday, August 18, 1997, Jane hosted a major celebration at Windswept. Many dignitaries, friends and family attended. She arranged for a startling and magnificent round of fireworks in his honor. Strangely, twelve years later on the night before her passing, my wife and I witnessed another stunning display of fireworks put on just across the inlet to Somes Sound by a neighbor celebrating a wedding or other special event. While these lights were not really designed in her honor, to us it was highly symbolic, as if her time of respect had come and was recognized. In my view, as well it should have been, for she was most definitely the power that guided my father to the heights of American government.

In addition to my sister, Arlin, and me, Jane leaves one sister, Virginia Garceau. Jane had three grandchildren, my nephew, James, and my two daughters, Louise and Rebecca. She left this life knowing also that she had five great grandsons, Timothy, David, George, Douglas Caspar and Charles. In a very strange twist of fate, Jane's ten-year old thoroughbred Golden Retriever, ''Brandy,'' died of a sudden stroke last Tuesday, July 7, right on the Full Moon. In my view, his death meant that he will be there for Jane in her spiritual journey beyond this life. Wow! Jane had a wonderful long life, perhaps rewarded for all her service by a just God or perhaps simply by the sense of firm resolve and purpose she brought to everything she did; most likely it was by a combination of both.

But primarily, as is most important to me, Rebecca Jane Dalton Weinberger was my mother. I loved her dearly and I shall miss her very much. But I am happy too for her, as at long last she can leave this weary Earth and perhaps re-join her husband of 63 years. Thank you, Jane for giving me not just life but a wonderful life. Indeed, though it was hardly your nature, may you now rest most peacefully.

CASPAR W. WEINBERGER, Jr.,
Mount Desert, ME.●

COMMENDING KITTERY TRADING POST

● Ms. SNOWE. Mr. President, with summer in full swing, I wish today to recognize a small family-run Maine business that has been outfitting customers with all of their outdoor needs for over 70 years. The Kittery Trading Post, located in Maine's southernmost town of Kittery, offers outdoor enthusiasts a shopping experience that is nearly as enjoyable as their outdoor activities.

The Kittery Trading Post holds a special place in the hearts of Mainers and tourists alike as it is one of the first visible landmarks upon entrance into our State from New Hampshire. The Trading Post was established by Philip Adams in 1938 and began small as a one-room, 360 square-foot retail location cohabitating with a gas station. Mr. Adams initially started his business by swapping gas for pelts, supplies for cars, and beef for ammunition. While the Trading Post has grown and much has changed over the years, it remains a family-owned and operated business to this day.

In 1961 Phillip Adams sold the trading post to his 21-year-old son, Kevin. Under Kevin's leadership, the Kittery Trading Post was voted Independent Specialty Retailer of the Year in 1979 by the United State Sporting Goods Industry. Kevin operated the company until his retirement in 1986, when the reins were passed on to Gary, Phillip, Kevin F., and Kim Adams. During this period, the Trading Post was presented with the Governor's Award for Business Excellence in 1995, a celebrated honor given to businesses that make generous contributions in the areas of community, employment, and service.

Phillip and Gary retired in 1999 and 2001 respectively, leaving the family business under the able leadership of Kevin F. and Kim. In 2001, the Trading Post earned yet another prestigious and coveted award, when the Maine Merchants Association named the Kittery Trading Post the Retailer of the Year.

Since its inception, the Kittery Trading Post has grown exponentially, resulting in its current size of 90,000 square feet of retail space. Spread out across three spacious levels, each area containing products appealing to a variety of customers, including quality and affordable provisions for hunting and archery, camping and travel, food and lodging, and fishing and marine activity, among others. The camping, rock climbing, water and winter sports divisions reside on the upper floor. Below that is the largest shooting sports department in New England, including over 3,000 used firearms in stock. And on the lower level is Kittery Trading Post's expansive fishing section.

In addition to the retail space, the Trading Post has two off-site warehouses, providing the firm with an additional 94,000 square feet of space to help increase the distribution of its products and keep up with the demands of online customers via the company's user-friendly website. The Kittery Trading Post offers free shipping on orders over $50, and also assures each customer that if they are not completely satisfied with their purchase they may return it for a full refund or replacement.

As a vibrant and active member of the local community, the Kittery Trading Post hosts a variety of seminars and events throughout the year. These events include weekly community bicycle rides, fly fishing lessons for children, and classes for gun owners on firearm reloading safety.

Over the course of its lengthy history, the Kittery Trading Post has expanded into a singular name in Southern Maine's outdoor sports outfitting arena. A true Maine gem, the Trading Post is an impressive destination for the amateur and the experienced outdoorsman alike. I commend everyone at the Kittery Trading Post for their exceptional work in providing quality and friendly service to tens of thousands of visitors each year, and wish them continued success for future decades.●

COMMENDING EDWIN C. PETRANEK

● Mr. THUNE. Mr. President, today I thank an American veteran for his valiant service to our country in the Advanced European Theater of Operation during World War II. Edwin C. Petranek was born September 9, 1916, in White River, SD. After graduating from the University of South Dakota in 1942, he was commissioned second lieutenant with the ROTC program and assigned to the 34th Infantry Division. Ed then went on to serve in Africa, Italy, and France until 1945 as a member of the 1st Battalion, Company A and B, 143rd Infantry, 36th Division as platoon leader.

Ed was eventually made first lieutenant, and his division took part in breaking the German defenses around Rome and in the invasion of southern France. He was wounded four times in the line of duty and returned to combat again and again. Ed left the European theater only after shattering his hip and being fitted with a full body cast.

Ed recovered and received a medical discharge in 1946 but stayed in the Army Reserves for 10 additional years, during which he returned to South Dakota and completed a master's degree. Upon receiving an honorable discharge in 1956, Ed continued to serve in a civilian capacity as an educator and coach. Here his commitment to excellence remained evident as he earned induction into the South Dakota Athletic Director Hall of Fame.

Both at home and abroad, the perseverance exhibited by South Dakota's own Ed Petranek remains an example to us all. This man has been awarded the Silver Star, a Purple Heart with three oak leaf clusters, a Bronze Star with cluster for meritorious service, and many other honors. Ed was also presented the French Legion of Honor. Today we have the chance to thank him for his dedication and to reflect on the true meaning of service.●

COMMENDING LIEUTENANT COLONEL (RETIRED) WALTER PAUL

● Mr. UDALL of Colorado. Mr. President, today I acknowledge the retirement of LTC (Ret.) Walter Paul, of the Colorado Army National Guard, and to recognize him for his distinguished public service as the resource manager and legislative director of the Colorado Department of Military and Veterans Affairs from 1999–2009.

Walter Paul was born in Vienna, Austria, and raised in the state of Victoria, Australia. He received a BS in chemistry from the University of Wisconsin in 1971. After college, he entered the U.S. Army as an artillery officer and served on active duty in Oklahoma, California, and Germany. He left active duty in 1978 but remained committed to his service by joining the California Army National Guard. When he moved his family—his wife Anna and two daughters—to Colorado in 1979, he transferred to the Colorado Army National Guard. As an artillery officer in the Colorado Army National Guard, he commanded the 2nd Battalion 157th Field Artillery in Colorado Springs.

As a traditional guardsman, Lieutenant Colonel Paul served as a member of the Guard on weekends while maintaining a business career during the week. He worked for Honeywell Semiconductor Division in Colorado Springs as a military program manager. In 1986, he earned his MBA from the University of Colorado at Colorado Springs, UCCS, and for 13 years, he taught part time at the UCCS Business

School. Lieutenant Colonel Paul also served as the chairman of the board of directors for St. Mary's High School in Colorado Springs, from which both of his daughters graduated.

In 1999, Lieutenant Colonel Paul was hired as resource manager and legislative director for the Colorado Department of Military and Veterans Affairs. In that role, he was responsible for the department's State budget, purchasing and contracting, and State tuition assistance, and he coordinated all the State and Federal legislation that impacts the Colorado National Guard, veterans in Colorado, as well as the Colorado Civil Air Patrol. After 10 years working for the Department, Lieutenant Colonel Paul retired earlier this summer. His daughters are now married, and he and Anna, his wife of 39 years, live in Colorado Springs.

I first met Lieutenant Colonel Paul in 1999 in my first year in office as a Member of the House of Representatives from Colorado's Second District. Over the years, he and his colleague Colonel (Ret.) William ''Robby'' Robinson worked very closely with my office on issues important to the Guard in Colorado, and helped me and my staff understand the critical role the Guard plays in times of peace and war. It was clear that this wasn't ''just'' a job for Lieutenant Colonel Paul—he was dedicated to his work and to the Guard, he was always available when my office needed his assistance, and his cheerful demeanor made him a joy to work with.

LTC Walter Paul has tirelessly supported our Nation's men and women in uniform. He is a patriot whose distinctive accomplishments reflect great credit upon him, the State of Colorado, and the Nation. I hope my colleagues will join me not only in recognizing his past accomplishments, but also in wishing him all the best in his future pursuits.●

COMMENDING COLONEL (RETIRED) WILLIAM L. ROBINSON (ROBBY)

● Mr. UDALL of Colorado. Mr. President, today I recognize and pay tribute to COL (Ret.) William ''Robby'' Robinson, who was commissioned as an infantry officer in 1968 through the U.S. Military Academy and who will retire next month after 13 years working for Colorado's Department of Military and Veterans Affairs. We owe him a debt of gratitude for his contributions to our Nation.

Colonel Robinson's civilian education includes a bachelor of science from West Point and a master's degree in public administration from Harvard University. His professional military education includes the infantry officer basic and advanced courses, Ranger, Airborne, Jumpmaster and Pathfinder schools at Fort Benning, GA; the College of Naval Command and Staff in Rhode Island; and the Army War College in Pennsylvania as the USCINCPAC Fellow.

His assignments have included the 82nd Airborne Division at Fort Bragg, NC; 173rd Airborne Brigade, Vietnam; A Company, 1st Battalion 502nd Infantry, 101st Airborne Division, Vietnam; 75th Infantry, Ranger, 101st Airborne Division, Vietnam; Logistics Plans Officer and Division Training Officer in the 24th Infantry Division at Fort Stewart, Georgia; and Task Force Commander of 2nd Battalion 8th Infantry in the 4th Infantry Division at Fort Carson, CO.

Among Colonel Robinson's awards and decorations are the Defense Superior Service Medal, the Legion of Merit, Purple Heart, Bronze Star, eight Air Medals, two Defense Meritorious Service Medals, and three Meritorious Service Medals.

Colonel Robinson has also served as an instructor of political sciences at West Point; Aide de Camp to the U.S. Representative to the NATO Military Committee in Brussels, Belgium; speechwriter for the Commander in Chief, U.S. Pacific Command; chief of strategy at USCINCPAC in Hawaii; and as Fifth U.S. Army senior active duty adviser to the Colorado Army National Guard.

He retired from active duty in June 1996 and became the resource manager and legislative liaison for Colorado's Department of Military Affairs. In 1999, he began serving as deputy director of the Department of Military and Veterans Affairs. He will retire next month, after 13 years with the department.

It was in his capacity as deputy director that I first met Colonel Robinson, when he and the department's legislative director, LTC (Ret.) Walter Paul, visited my office in my first year as a Member of the House of Representatives from Colorado's Second District. Over the years, Colonel Robinson and Lieutenant Colonel Paul worked very closely with my office on issues important to the Guard in Colorado, and helped me and my staff understand the critical role the Guard plays in times of peace and war.

Colonel Robinson is a man of integrity, whose counsel is widely sought. In his years of service, he has demonstrated his deep commitment to our Guard members, our veterans, and their families. Retirement will allow him to spend more time with his wife Cathy, who is program director for Elbert County Social Services, their daughter Meredith, a veterinarian in Wheat Ridge, and their son Will, a student at the University of Colorado, Denver. But we will miss him and will continue to seek his counsel.

I know all my colleagues join me in saluting COL (Ret.) William ''Robby'' Robinson for his many years of truly outstanding service to the United States Army, the Colorado National Guard, our veterans, and our Nation.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 5:51 p.m., a message from Ms. Niland, one of its reading clerks, announced that the Speaker pro tempore (Mr. HOYER) has signed the following enrolled bills and joint resolutions:

H.R. 774. An act to designate the facility of the United States Postal Service located at 46–02 21st Street in Long Island City, New York, as the ''Geraldine Ferraro Post Office Building''.

H.R. 987. An act to designate the facility of the United States Postal Service located at 601 8th Street in Freedom, Pennsylvania, as the ''John Scott Challis, Jr. Post Office''.

H.R. 1271. An act to designate the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the ''Elijah Pat Larkins Post Office Building''.

H.R. 1275. An act to direct the exchange of certain land in Grand, San Juan, and Uintah Counties, Utah, and for other purposes.

H.R. 1397. An act to designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the ''Caroline O'Day Post Office Building''.

H.R. 2090. An act to designate the facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, as the ''Frederic Remington Post Office Building''.

H.R. 2162. An act to designate the facility of the United States Postal Service located at 123 11th Avenue South in Nampa, Idaho, as the ''Herbert A Littleton Postal Station''.

H.R. 2325. An act to designate the facility of the United States Postal Service located at 1300 Matamoros Street in Laredo, Texas, as the ''Laredo Veterans Post Office''.

H.R. 2422. An act to designate the facility of the United States Postal Service located at 2300 Scenic Drive in Georgetown, Texas, as the ''Kile G. West Post Office Building''.

H.R. 2470. An act to designate the facility of the United States Postal Service located at 19190 Cochran Boulevard FRNT in Port Charlotte, Florida, as the ''Lieutenant Commander Roy H. Boehm Post Office Building''.

H.R. 2938. An act to extend the deadline for commencement of construction of a hydroelectric project.

S.J. Res. 19. Joint resolution granting the consent and approval of Congress to amendments made by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

H.J. Res. 44. Joint resolution recognizing the service, sacrifice, honor, and professionalism of the Noncommissioned Officers of the United States Army.

ENROLLED BILL SIGNED

At 8:15 p.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the Speaker pro tempore (Mr. HOYER) has signed the following enrolled bill:

H.R. 3435. An act making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. REID).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2622. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Poultry Improvement Plan and Auxiliary Provisions; Technical Amendment'' ((RIN0579–AC78)(Docket No. APHIS–2006–0137)) received in the Office of the President of the Senate on August 3, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2623. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sodium and Ammonium Naphthalenesulfonate Formaldehyde Condensates; Exemption from the Requirement of a Tolerance'' (FRL No. 8938–8) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2624. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sodium Alkyl Naphtalenesulfonate; Exemption from the Requirement of a Tolerance'' (FRL No. 8428–6) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2625. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Polyoxyethylene polyoxypropylene monodi-sec-butylphenyl) ether; Exemption from the Requirement of a Tolerance'' (FRL No. 8429–4) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2626. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus thuringiensis Cry1A.105 protein; Time Limited Exemption from the Requirement of a Tolerance; Correction'' (FRL No. 8428–7) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2627. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Amine Salts of Alkyl (C8–C24) Benzenesulfonic Acid (Dimethylaminopropylamine, Isopropylamine, Mono-, Di-, and Triethanolamine); Exemption from the Requirement of a Tolerance'' (FRL No. 8430–2) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2628. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Alkyl Alcohol Alkoxylates; Exemption from the Requirement of a Tolerance; (FRL No. 8430–1) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2629. A communication from the Associate General Counsel for Legislation and Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Section 108 Community Development Loan Guarantee Program: Participation of States as Borrowers Pursuant to Section 222 of the Omnibus Appropriations Act, 2009'' (Docket No. 5326–I–01) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–2630. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Capital Classifications and Critical Capital Levels for the Federal Home Loan Banks'' (RIN2590–AA21) received in the Office of the President of the Senate on August 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–2631. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Affordable Housing Program Amendments: Federal Home Loan Bank Mortgage Refinancing Authority'' (RIN2590–AA04) received in the Office of the President of the Senate on August 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–2632. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''2009 Enterprise Transition Affordable Housing Goals'' (RIN2590–AA25) received in the Office of the President of the Senate on August 3, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–2633. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL No. 8941–1) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Environment and Public Works.

EC–2634. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised Motor Vehicle Emission Budgets for the York-Adams Counties 8-Hour Ozone Maintenance Area'' (FRL No. 8941–4) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Environment and Public Works.

EC–2635. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised Motor Vehicle Emission Budgets for the Scranton/Wilkes-Barre 8-hour Ozone Maintenance Area'' (FRL No. 8941–6) received in the Office of the President of the Senate on August 4, 2009; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–77. A concurrent resolution adopted by the Legislature of the State of Texas urging Congress to make eradication of the fever tick in South Texas a priority and continue to provide appropriate funding and resources for this effort; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 120

Whereas, south Texas is on the front line of the battle against the fever tick, a pest that threatens to inflict catastrophic losses on the beef industry should it continue to spread beyond a permanent quarantine zone established along the Rio Grande in 1943; and

Whereas, historically, the fever tick ranged across the entire southeastern United States, reaching as far north as Maryland and Pennsylvania; the tick can carry and transmit a parasite that causes cattle tick fever, which kills up to 90 percent of infected cattle; in 1893, the Texas Animal Health Commission was founded to fight this scourge, and in 1907 the United States Department of Agriculture established the National Cattle Fever Tick Eradication Program; by then, the tick had already caused direct and indirect economic losses estimated to equal more than $1 billion in today's dollars; and

Whereas, the eradication program had successfully contained the fever tick to an 852-square-mile quarantine zone by 1943; the tick was never eliminated in Mexico, however, and personnel from the USDA Tick Force have maintained a high level of vigilance to fight continuous reintroduction; after the pest was detected beyond the zone in 2007, five temporary preventive quarantine areas were established, covering more than one million acres in Starr, Zapata, Jim Hogg, Maverick, Dimmit, and Webb Counties; and

Whereas, in March 2008, the Texas Department of Agriculture requested some $13 million to fight the spread of fever ticks; the USDA released $5.2 million, and in January 2009 it committed another $4.9 million in emergency funds, but sustained funding over the long term is essential; moreover, the National Fever Tick Eradication Strategic Plan, developed and approved by the USDA in 2006, has never been implemented and funded, and Dr. Bob Hillman, the state veterinarian and executive director of the Texas Animal Health Commission, has warned that fever ticks are a national livestock threat that requires an all-out assault; and

Whereas, the fever tick has gained substantial ground in this state, but the Texas Department of Agriculture, the Texas Animal Health Commission, and the USDA Tick Force continue working diligently with cattle owners to save a key component of the Lone Star State's agricultural economy and prevent the battlefront from extending to other states; if the fever tick is not contained, the cost to the cattle industry could easily approach $1 billion a year and lead to rising food costs for consumers; now, therefore, be it

Resolved, That the 81st Legislature of the State of Texas hereby memorialize the Congress of the United States to make eradication of the fever tick in South Texas a priority and continue to provide appropriate funding and resources for this effort; and, be it, further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all members of the Texas delegation to Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 859. A bill to amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes (Rept. No. 111–70).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mrs. BOXER for the Committee on Environment and Public Works.

*Gary S. Guzy, of the District of Columbia, to be Deputy Director of the Office of Environmental Quality.

*John R. Fernandez, of Indiana, to be Assistant Secretary of Commerce for Economic Development.

By Mr. LEAHY for the Committee on the Judiciary.

David J. Kappos, of New York, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Steven M. Dettelbach, of Ohio, to be United States Attorney for the Northern District of Ohio for the term of four years.

Carter M. Stewart, of Ohio, to be United States Attorney for the Southern District of Ohio for the term of four years.

David Edward Demag, of Vermont, to be United States Marshal for the District of Vermont for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VITTER:

S. 1586. A bill to require all public school employees and those employed in connection with a public school to receive FBI background checks prior to being hired, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRAHAM:

S. 1587. A bill for the relief of Sainey H. Fatty; to the Committee on the Judiciary.

By Mr. WYDEN:

S. 1588. A bill to amend the Internal Revenue Code of 1986 to provide the same tax treatment for both commercial and noncommercial investors in oil and natural gas and related commodities, and for other purposes; to the Committee on Finance.

By Ms. CANTWELL (for herself and Mr. GRASSLEY):

S. 1589. A bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 1590. A bill to establish a clean energy technology business competition grant program; to the Committee on Energy and Natural Resources.

By Mrs. MURRAY (for herself and Mr. DURBIN):

S. 1591. A bill to amend the Foreign Assistance Act of 1961, to establish the Health Technology Program in the United States Agency for International Development to research and develop technologies to improve global health, and for other purposes; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself and Mr. CARDIN):

S. 1592. A bill to establish a Federal Board of Certification to enhance the transparency, credibility, and stability of financial markets, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MENENDEZ (for himself, Mr. MARTINEZ, and Mr. DODD):

S. 1593. A bill to authorize the establishment of a Social Investment and Economic Development for the Americas Fund to reduce poverty, expand the middle class, and foster increased economic opportunity in that region, to promote engagement on the use of renewable fuel sources and on climate change in the Americas, and for other purposes; to the Committee on Foreign Relations.

By Mr. LIEBERMAN (for himself, Mr. KENNEDY, and Mr. AKAKA):

S. 1594. A bill to provide safeguards against faulty asylum procedures, to improve conditions of detention for detainees, and for other purposes; to the Committee on the Judiciary.

By Mr. MERKLEY:

S. 1595. A bill to amend the Truth in Lending Act to prohibit the distribution of any check or other negotiable instrument as part of a solicitation by a creditor for an extension of credit, to limit the liability of consumers in conjunction with such solicitations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER:

S. 1596. A bill to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California; to the Committee on Energy and Natural Resources.

By Mr. MENENDEZ:

S. 1597. A bill to amend title 31, United States Code, to provide for the licensing by the Secretary of the Treasury of Internet poker and other games that are predominantly of skill, to provide for consumer protections on the Internet, to enforce the tax code, and for other purposes; to the Committee on Finance.

By Mr. SCHUMER (for himself, Mr. ISAKSON, Mr. BAYH, Mr. ENSIGN, Mr. VITTER, Mr. SPECTER, Mr. WHITEHOUSE, and Mr. KAUFMAN):

S. 1598. A bill to amend the National Child Protection Act of 1993 to establish a permanent background check system; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. CHAMBLISS, and Mr. PRYOR):

S. 1599. A bill to amend title 36, United States Code, to include in the Federal charter of the Reserve Officers Association leadership positions newly added in its constitution and bylaws; to the Committee on Armed Services.

By Mrs. MCCASKILL (for herself, Mr. BENNET, Mr. TESTER, Mr. UDALL of Colorado, Mr. WARNER, Ms. KLOBUCHAR, Mr. BEGICH, and Mrs. SHAHEEN):

S. 1600. A bill to reinstitute and update the Pay-As-You-Go requirement of budget neutrality on new tax and mandatory spending legislation, enforced by the threat of annual, automatic sequestration; to the Committee on the Budget.

By Mr. UDALL of Colorado:

S. 1601. A bill to provide for the release of water from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. UDALL of Colorado (for himself and Mr. BENNET):

S. 1602. A bill to amend title 10, United States Code, to ensure that excess oil and gas lease revenues are distributed in accordance with the Mineral Leasing Act, and for other purposes; to the Committee on Armed Services.

By Mr. BROWN:

S. 1603. A bill to amend section 484B of the Higher Education Act of 1965 to provide for tuition reimbursement and loan forgiveness to students who withdraw from an institution of higher education to serve in the uniformed services, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. KLOBUCHAR (for herself and Ms. MIKULSKI):

S. 1604. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit for eldercare expenses; to the Committee on Finance.

By Mr. SCHUMER (for himself, Mr. ISAKSON, Mr. KERRY, and Mr. UDALL of New Mexico):

S. 1605. A bill to amend the Internal Revenue Code of 1986 to reform the rules relating to fractional charitable donations of tangible personal property; to the Committee on Finance.

By Mr. WHITEHOUSE (for himself, Mr. DURBIN, and Mr. SESSIONS):

S. 1606. A bill to require foreign manufacturers of products imported into the United States to establish registered agents in the United States who are authorized to accept service of process against such manufacturers, and for other purposes; to the Committee on Finance.

By Mr. BROWN:

S. 1607. A bill to amend title 38, United States Code, to provide for certain rights and benefits for persons who are absent from positions of employment to receive medical treatment for service-connected disabilities, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. STABENOW (for herself, Mr. BROWN, Mrs. GILLIBRAND, and Mr. FRANKEN):

S. 1608. A bill to prepare young people in disadvantaged situations for a competitive future; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself, Mrs. MURRAY, Ms. MURKOWSKI, and Mr. BEGICH):

S. 1609. A bill to authorize a single fisheries cooperative for the Bering Sea Aleutian Islands longline catcher processor subsector,

and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. CANTWELL (for herself, Mr. VITTER, Ms. LANDRIEU, Mrs. MURRAY, and Mr. MARTINEZ):

S. 1610. A bill to amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States; to the Committee on Finance.

By Mr. GREGG (for himself, Mr. KENNEDY, Ms. COLLINS, Mr. DODD, Mr. MARTINEZ, Mr. HARKIN, Ms. SNOWE, and Ms. MIKULSKI):

S. 1611. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (for herself and Ms. LANDRIEU):

S. 1612. A bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes; to the Committee on Finance.

By Mr. BENNET:

S. 1613. A bill to reduce the Federal budget deficit in a responsible manner; to the Committee on the Budget.

By Mr. SCHUMER:

S. 1614. A bill to provide grants to community colleges to improve the accessibility of computer labs and to provide information technology training for students and members of the public seeking to improve their computer literacy and information technology skills; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 1615. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to stop the small business credit crunch, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Ms. CANTWELL:

S. 1616. A bill to authorize assistance to small- and medium-sized businesses to promote exports to the People's Republic of China, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN (for himself, Ms. STABENOW, Mr. BAYH, Mrs. GILLIBRAND, and Mr. MERKLEY):

S. 1617. A bill to require the Secretary of Commerce to establish a program for the award of grants to States to establish revolving loan funds for small and medium-sized manufacturers to improve energy efficiency and produce clean energy technology, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER:

S. 1618. A bill to require the Commissioner of Social Security to issue uniform standards for the method of truncation of Social Security account numbers in order to protect such numbers from being used in the perpetration of fraud or identity theft and to provide for a prohibition on the display to the general public on the Internet of Social Security account numbers by State and local governments, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. MENENDEZ, Mr. MERKLEY, Mr. BENNET, Mr. AKAKA, and Mr. SCHUMER):

S. 1619. A bill to establish the Office of Sustainable Housing and Communities, to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant program, to establish a sustainability challenge grant program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. KERRY, and Mr. LUGAR):

S. 1620. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives and fees for increasing motor vehicle fuel economy, and for other purposes; to the Committee on Finance.

By Mr. SANDERS (for himself and Mr. MERKLEY):

S. 1621. A bill to improve thermal energy efficiency and use, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BARRASSO:

S. 1622. A bill to limit the applicability of a certain judicial ruling to sources regulated under section 202 of the Clean Air Act; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself, Mr. DODD, and Mr. MENENDEZ):

S. 1623. A bill to prohibit the Secretary of the Interior from issuing new Federal oil and gas leases to holders of existing leases who do not diligently develop the land subject to the existing leases or relinquish the leases, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WHITEHOUSE:

S. 1624. A bill to amend title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. BINGAMAN):

S. 1625. A bill to amend title II of the Public Health Service Act to provide for an improved method to measure poverty so as to enable a better assessment of the effects of programs under the Public Health Service Act and the Social Security Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. KLOBUCHAR:

S. 1626. A bill to require issuers of long term care insurance to establish third party review processes for disputed claims; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN:

S. 1627. A bill to improve choices for consumers for vehicles and fuel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. UDALL of Colorado (for himself and Mrs. HAGAN):

S. 1628. A bill to amend title VII of the Public Health Service Act to increase the number of physicians who practice in underserved rural communities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURRIS:

S. 1629. A bill to authorize the Secretary of the Interior to conduct a special resource study of the archeological site and surrounding land of the New Philadelphia town site in the state of Illinois, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself and Mr. FRANKEN):

S. 1630. A bill to amend title XVIII of the Social Security Act of improve prescription drug coverage under Medicare part D and to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to improve prescription drug coverage under private health insurance, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 1631. A bill to reauthorize customs facilitation and trade enforcement functions and programs, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself and Mr. ISAKSON):

S. 1632. A bill to require full and complete public disclosure of the terms of home mortgages held by Members of Congress; to the Committee on Homeland Security and Governmental Affairs.

By Ms. CANTWELL:

S. 1633. A bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation Business Travel Cards, and for other purposes; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself, Mr. AKAKA, and Mr. BROWN):

S. 1634. A bill to amend titles XVIII and XIX of the Social Security Act to protect and improve the benefits provided to dual eligible individuals under the Medicare and Medicaid programs; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. JOHANNS, Mr. BAUCUS, Mr. JOHNSON, Mr. THUNE, Mr. TESTER, and Mr. UDALL of New Mexico):

S. 1635. A bill to establish an Indian Youth telemental health demonstration project, to enhance the provision of mental health care services to Indian youth, to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns, and for other purposes; to the Committee on Indian Affairs.

By Ms. KLOBUCHAR (for herself and Mr. KOHL):

S. 1636. A bill to develop a model disclosure form to assist consumers in purchasing long-term care insurance; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, and Mr. BINGAMAN):

S. 1637. A bill to amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes; to the Committee on Finance.

By Mr. WICKER (for himself, Mr. BROWNBACK, Mr. COBURN, Mr. DEMINT, Mr. ENSIGN, and Mr. THUNE):

S. 1638. A bill to permit Amtrak passengers to safely transport firearms and ammunition in their checked baggage; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Ms. SNOWE, and Mrs. FEINSTEIN):

S. 1639. A bill to amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself, Mr. CORNYN, and Mr. HARKIN):

S. 1640. A bill to amend title XVIII of the Social Security Act to provide coverage of intensive lifestyle treatment; to the Committee on Finance.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 1641. A bill to modify and waive certain requirements under title 23, United States Code, to assist States with a high unemployment rate in carrying out Federal-aid highway construction projects, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWNBACK:

S. 1642. A bill to reduce the national debt and eliminate the current slush fund at the Treasury Department by directing that proceeds from the Troubled Asset Relief Program go toward a reduction in the statutory

debt limit; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 1643. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the conversion of heating using oil fuel to using natural gas or biomass feedstocks, and for other purposes; to the Committee on Finance.

By Ms. STABENOW (for herself and Mr. KENNEDY):

S. 1644. A bill to amend the Trade Act of 1974 to require a Public Health Advisory Committee on Trade to be included in the trade advisory committee system, to require public health organizations to be included on the Advisory Committee for Trade Policy and Negotiations and other relevant sectoral or functional advisory committees, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 1645. A bill to amend the Agricultural Adjustment Act to require the Secretary of Agriculture to determine the price of all milk used for manufactured purposes, which shall be classified as Class II milk, by using the national average cost of production, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself, Mrs. GILLIBRAND, Mr. MENENDEZ, Mr. LAUTENBERG, Mr. CASEY, Mr. SPECTER, Mr. DODD, and Mr. LIEBERMAN):

S. Res. 245. A resolution recognizing September 11 as a ''National Day of Service and Remembrance''; to the Committee on the Judiciary.

By Mr. ENZI (for himself and Mr. BARRASSO):

S. Res. 246. A resolution requiring that legislation considered by the Senate to be confined to a single issue; to the Committee on Rules and Administration.

By Mr. WHITEHOUSE (for himself, Mrs. BOXER, Mr. BURR, Mr. CARDIN, Mr. CARPER, Mr. COCHRAN, Ms. COLLINS, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Mr. GREGG, Ms. LANDRIEU, Mr. LAUTENBERG, Ms. MIKULSKI, Mrs. MURRAY, Mrs. SHAHEEN, Mr. WARNER, and Mr. WYDEN):

S. Res. 247. A resolution designating September 26, 2009, as ''National Estuaries Day''; to the Committee on the Judiciary.

By Ms. COLLINS (for herself, Mr. BEGICH, Ms. SNOWE, Ms. MURKOWSKI, and Mr. ROCKEFELLER):

S. Res. 248. A resolution designating the month of August 2009 as ''Agent Orange Awareness Month''; considered and agreed to.

By Mr. ROBERTS (for himself and Mr. NELSON of Florida):

S. Res. 249. A resolution honoring United States Navy pilot Captain Michael Scott Speicher who was killed in Operation Desert Storm; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 250. A resolution to authorize testimony and legal representation in People of the State of California v. Amir Shervin; considered and agreed to.

By Mrs. HAGAN (for herself and Mr. DURBIN):

S. Con. Res. 38. A concurrent resolution expressing support for the designation of an Early Detection Month to enhance public awareness of the need for screening for breast cancer and all other forms of cancer; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 148

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 148, a bill to restore the rule that agreements between manufacturers and retailers, distributors, or wholesalers to set the minimum price below which the manufacturer's product or service cannot be sold violates the Sherman Act.

S. 211

At the request of Mrs. MURRAY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services and volunteer services, and for other purposes.

S. 229

At the request of Mrs. BOXER, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 229, a bill to empower women in Afghanistan, and for other purposes.

S. 244

At the request of Mr. BOND, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 244, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

At the request of Mrs. MURRAY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 244, supra.

S. 254

At the request of Mrs. LINCOLN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 254, a bill to amend title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under the Medicare Program.

S. 266

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 266, a bill to amend title XVIII of the Social Security Act to reduce the coverage gap in prescription drug coverage under part D of such title based on savings to the Medicare program resulting from the negotiation of prescription drug prices.

S. 422

At the request of Ms. STABENOW, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 422, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 433

At the request of Mr. UDALL of New Mexico, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 433, a bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a renewable electricity standard, and for other purposes.

S. 451

At the request of Ms. MIKULSKI, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

At the request of Ms. COLLINS, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 451, supra.

S. 616

At the request of Mr. HARKIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 616, a bill to amend the Public Health Service Act to authorize medical simulation enhancement programs, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 662

At the request of Mr. CONRAD, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 662, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 669

At the request of Mr. BURR, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 669, a bill to amend title 38, United States Code, to clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes.

S. 683

At the request of Mr. HARKIN, the names of the Senator from Illinois (Mr. BURRIS) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 683, a bill to amend title

XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 694

At the request of Mr. DODD, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Ohio (Mr. BROWN) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 694, a bill to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 696

At the request of Mr. CARDIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 696, a bill to amend the Federal Water Pollution Control Act to include a definition of fill material.

S. 714

At the request of Mr. WEBB, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 714, a bill to establish the National Criminal Justice Commission.

S. 726

At the request of Mr. SCHUMER, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 726, a bill to amend the Public Health Service Act to provide for the licensing of biosimilar and biogeneric biological products, and for other purposes.

S. 750

At the request of Mrs. BOXER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 750, a bill to amend the Public Health Service Act to attract and retain trained health care professionals and direct care workers dedicated to providing quality care to the growing population of older Americans.

S. 757

At the request of Mr. UDALL of Colorado, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 757, a bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to expand the category of individuals eligible for compensation, to improve the procedures for providing compensation, and to improve transparency, and for other purposes.

S. 819

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 819, a bill to provide for enhanced treatment, support, services, and research for individuals with autism spectrum disorders and their families.

S. 841

At the request of Mr. KERRY, the names of the Senator from Mississippi (Mr. WICKER) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 845

At the request of Mr. THUNE, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 845, a bill to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State.

S. 850

At the request of Mr. KERRY, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 883

At the request of Mr. KERRY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 908

At the request of Mr. BAYH, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 934

At the request of Mr. HARKIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 934, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

S. 984

At the request of Mrs. BOXER, the names of the Senator from New York (Mr. SCHUMER) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 994

At the request of Ms. KLOBUCHAR, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 994, a bill to amend the Public Health Service Act to increase awareness of the risks of breast cancer in young women and provide support for young women diagnosed with breast cancer.

S. 1019

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1019, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1038

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1038, a bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes.

S. 1052

At the request of Mr. CONRAD, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1052, a bill to amend the small, rural school achievement program and the rural and low-income school program under part B of title VI of the Elementary and Secondary Education Act of 1965.

S. 1065

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 1065, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1066

At the request of Mr. ROBERTS, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 1089

At the request of Mr. BAUCUS, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1089, a bill to facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish an agricultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, and for other purposes.

S. 1090

At the request of Mr. WYDEN, the name of the Senator from Indiana (Mr.

LUGAR) was added as a cosponsor of S. 1090, a bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources.

S. 1091

At the request of Mr. WYDEN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1091, a bill to amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, and for other purposes.

S. 1121

At the request of Mr. HARKIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1121, a bill to amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the repair, renovation, and construction of elementary and secondary schools, including early learning facilities at the elementary schools.

S. 1131

At the request of Mr. WYDEN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1131, a bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to coordinated, primary care medical services in lower cost treatment settings, such as their residences, under a plan of care developed by a team of qualified and experienced health care professionals.

S. 1158

At the request of Mr. ISAKSON, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1158, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 1273

At the request of Mr. DORGAN, the names of the Senator from Minnesota (Mr. FRANKEN), the Senator from Hawaii (Mr. AKAKA) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of S. 1273, a bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders.

S. 1295

At the request of Mrs. SHAHEEN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1295, a bill to amend title XVIII of the Social Security Act to cover transitional care services to improve the quality and cost effectiveness of care under the Medicare program.

S. 1301

At the request of Mr. MENENDEZ, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1301, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

S. 1304

At the request of Mr. GRASSLEY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1352

At the request of Mr. DODD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1352, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1361

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 1361, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 1397

At the request of Ms. KLOBUCHAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1397, a bill to authorize the Administrator of the Environmental Protection Agency to award grants for electronic device recycling research, development, and demonstration projects, and for other purposes.

S. 1401

At the request of Mr. MARTINEZ, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from Nevada (Mr. REID) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1401, a bill to provide for the award of a gold medal on behalf of Congress to Arnold Palmer in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf.

S. 1423

At the request of Mrs. BOXER, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1423, a bill to amend title XIX of the Social Security Act to require coverage under the Medicaid Program for freestanding birth center services.

S. 1438

At the request of Mrs. GILLIBRAND, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1438, a bill to express the sense of Congress on improving cybersecurity globally, to require the Secretary of State to submit a report to Congress on improving cybersecurity, and for other purposes.

S. 1492

At the request of Ms. MIKULSKI, the names of the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Delaware (Mr. KAUFMAN), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1492, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 1518

At the request of Mr. BURR, the names of the Senator from Florida (Mr. NELSON) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 1518, a bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune.

S. 1523

At the request of Mr. BURR, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1523, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals and families, and for other purposes.

S. 1524

At the request of Mrs. SHAHEEN, her name was added as a cosponsor of S. 1524, a bill to strengthen the capacity, transparency, and accountability of United States foreign assistance programs to effectively adapt and respond to new challenges of the 21st century, and for other purposes.

S. 1540

At the request of Mr. CORKER, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1540, a bill to provide for enhanced authority of the Federal Deposit Insurance Corporation to act as receiver for certain affiliates of depository institutions, and for other purposes.

S. 1542

At the request of Mr. SCHUMER, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1542, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1545

At the request of Mrs. GILLIBRAND, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1545, a bill to expand the research and awareness activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases and the Centers for Disease Control and Prevention with respect to scleroderma, and for other purposes.

S. 1547

At the request of Mr. REED, the name of the Senator from Alaska (Mr.

BEGICH) was added as a cosponsor of S. 1547, a bill to amend title 38, United States Code, and the United States Housing Act of 1937 to enhance and expand the assistance provided by the Department of Veterans Affairs and the Department of Housing and Urban Development to homeless veterans and veterans at risk of homelessness, and for other purposes.

S. 1551

At the request of Mr. SPECTER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1551, a bill to amend section 20 of the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such Act.

S. 1552

At the request of Mr. LIEBERMAN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1552, a bill to reauthorize the DC opportunity scholarship program, and for other purposes.

S. 1567

At the request of Mr. BROWNBACK, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1567, a bill to provide for the issuance of a Multinational Species Conservation Funds Semipostal Stamp.

S. 1569

At the request of Ms. STABENOW, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1569, a bill to expand our Nation's Advanced Practice Registered Nurse workforce.

S. 1584

At the request of Mr. MERKLEY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1584, a bill to prohibit employment discrimination on the basis of sexual orientation or gender identity.

S. RES. 187

At the request of Mrs. SHAHEEN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Res. 187, a resolution condemning the use of violence against providers of health care services to women.

S. RES. 210

At the request of Mrs. LINCOLN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 210, a resolution designating the week beginning on November 9, 2009, as National School Psychology Week.

S. RES. 244

At the request of Mr. FEINGOLD, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 244, a resolution commemorating the 45th anniversary of the Wilderness Act.

AMENDMENT NO. 2301

At the request of Mr. KYL, the names of the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. ROBERTS) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 2301 proposed to H.R. 3435, a bill making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.

AMENDMENT NO. 2302

At the request of Mr. GREGG, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Tennessee (Mr. CORKER), the Senator from Texas (Mr. CORNYN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 2302 proposed to H.R. 3435, a bill making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.

AMENDMENT NO. 2306

At the request of Mr. ISAKSON, the names of the Senator from North Carolina (Mr. BURR), the Senator from Wyoming (Mr. ENZI) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of amendment No. 2306 proposed to H.R. 3435, a bill making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN:

S. 1588. A bill to amend the Internal Revenue Code of 1986 to provide the same tax treatment for both commercial and noncommercial investors in oil and natural gas and related commodities, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, businesses like airlines, trucking companies, and heating oil distributors buy and sell oil and futures contracts because they need to do so to run their day-to-day business and hedge their risk against wild swings in oil prices like consumers saw last year.

But there are also buyers and sellers in the market—financial speculators—who are simply there to try to make a quick dollar on oil as an investment strategy. The explosion of speculators into the marketplace has distorted the oil and gas market and driven up the price of oil for everybody. When commercial businesses see fuel prices go up, they try to consume less. But when speculators see prices go up, they buy more and keep driving up demand. This distorts the normal supply-demand balance of the markets and digs a huge financial hole for average Americans.

In 2000, speculative trading in the oil futures markets accounted for 37 percent of crude oil trading on the New York Mercantile Exchange. By last summer when prices were approaching $150 a barrel, that number had grown to more than 70 percent. I do not think that is a coincidence.

There are a lot of proposals around to fix the regulatory system to prevent trading abuses. Oregon's economy really suffered from abusive energy trading by Enron, and I am all for closing trading loopholes. But my bill is aimed at something different. It is aimed at the giant financial bubble that has been created by people who are simply chasing speculative profits in the commodities markets and creating artificial demand that is driving up prices.

The legislation I am introducing today—Stop Tax-breaks for Oil Profiteering, STOP, Act of 2009—will let some of the air out of this speculative balloon and help create a level playing field among companies participating in the commodity markets.

Under the tax code, commercial traders, those who truly need to buy, sell and hedge their purchases of oil, pay taxes on whatever profits they make on trading at the same rates as ordinary income. Speculators get a much better deal from the TAX CODE. Some, such as pension funds or endowments, do not pay any tax whatsoever when they profit on their oil or futures investments. Others, like hedge or index funds can get lower tax rates by treating some of their trading profits as capital gains. Clearly, the deck is stacked against the businesses who really buy and use oil. That means it is also stacked against the consumer who needs the services and products those businesses provide.

My proposal removes incentives in the tax code that make such investments attractive to both tax-exempt and tax-paying investors. It also makes everyone in the United States who is buying and selling oil and gas or futures contracts play by essentially the same tax rules across the board. Tax-paying entities would lose the ability to treat any of these investments as capital gains and be subject to comparable tax treatment on oil and gas investments as airlines or trucking companies or fuel distributors or other businesses that truly need to be in these markets.

Tax-exempt entities, like pension funds, would be required to pay ''unrelated-business-income-tax'' on their oil and gas trading gains. UBTI already exists as a well-established tax obligation for income that is not directly related to the tax exempt purpose of the organization. UBTI was created precisely to keep tax exempt organizations from competing unfairly with taxpaying businesses, which is what they are doing when they enter the commodity markets solely for investment income purposes. The bill also includes provisions that would prevent tax exempt organizations from investing in off-shore funds to try to avoid the new UBTI tax.

By focusing on tax fairness, my bill would realign the profit incentives that are currently attracting non-commercial actors to the markets. If speculators are truly in the markets and are wrecking havoc with oil and gas prices, this bill will do away with their tax subsidies and cause many to leave. It deflates the speculative balloon of artificially inflated profits that has made this investment arena so attractive.

If speculators are not a problem, then this bill will help prove the theory that the wild swings in oil prices of the past year truly can be blamed on supply and demand.

The bill would only cover the oil and natural gas markets, and related products like gasoline and diesel fuel, and be in effect for the next 4 years. However, after 3 years, it would require the Treasury Department to issue a report analyzing the impact of these changes on these markets, making recommendations on what changes to make.

Other proposals on oil speculation focus on regulation of the market or limiting the amounts of oil traders could purchase. These approaches are ''top down'' efforts to prevent trading abuses and financial investors from swamping the market. This bill approaches the problem from the bottom line up. Willy Sutton, the bank robber was asked why he robbed banks, to which he is said to have replied, ''It's where the money is.'' That is why this bill focuses on the flow of financial investment funds into the oil and gas markets, it's where the speculation is.

In these tough economic times, I believe consumers need protection from people who try to game the system to pad their own pockets. By putting an end to the imbalances in the tax code that currently feed oil profiteers, the STOP Act will be good for American businesses and consumers. I hope my colleagues will join me in protecting our economy and leveling the playing field in the oil and gas markets by voting in favor of the STOP Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stop Taxbreaks for Oil Profiteering Act'' or the ''STOP Act''.

SEC. 2. CAPITAL GAIN OR LOSS FROM SALE OR EXCHANGE OF OIL OR NATURAL GAS AND RELATED COMMODITIES TREATED AS SHORT-TERM CAPITAL GAIN OR LOSS.

(a) GAIN OR LOSS ON APPLICABLE COMMODITIES.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for determining capital gains and losses) is amended by adding at the end the following new section:

''SEC. 1261. CAPITAL GAIN OR LOSS FROM SALE OR EXCHANGE OF OIL OR NATURAL GAS AND RELATED COMMODITIES TREATED AS SHORT-TERM CAPITAL GAIN OR LOSS.

''(a) GENERAL RULE.—If a taxpayer has gain or loss from the sale or exchange of any applicable commodity which, without regard to this section, would be treated as long-term capital gain or loss, such gain or loss shall, notwithstanding any other provision of this title, be treated as short-term capital gain or loss.

''(b) APPLICABLE COMMODITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable commodity' means—

''(A) oil or natural gas (or any primary product of oil or natural gas) which is actively traded (within the meaning of section 1092(d)(1)),

''(B) a specified index (within the meaning of section 1221(b)(1)(B)(ii)) a substantial portion of which is, as of the date the taxpayer acquires its position with respect to such specified index, based on 1 or more commodities described in subparagraph (A),

''(C) any notional principal contract with respect to any commodity described in subparagraph (A) or (B), and

''(D) any evidence of an interest in, or a derivative instrument in, any commodity described in subparagraph (A), (B), or (C), including any option, forward contract, futures contract, short position, and any similar instrument in such a commodity.

''(2) EXCEPTION FOR CERTAIN SECTION 1256 CONTRACTS.—Such term shall not include a section 1256 contract (as defined in section 1256(b)) which is required to be marked to market under section 1256(a).

''(c) SPECIAL RULE FOR CERTAIN PARTNERSHIP INTERESTS.—For purposes of this section, if a taxpayer recognizes gain or loss on the sale or exchange of any interest in a partnership, the portion of such gain or loss which is attributable to unrecognized gain or loss with respect to 1 or more applicable commodities shall be treated as short-term capital gain or loss. The preceding sentence shall not apply if the taxpayer is otherwise required to treat such portion of gain or loss as ordinary income or loss.

''(d) APPLICATION.—This section shall apply to any applicable commodity acquired after August 31, 2009, and before January 1, 2014.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1222 of such Code is amended by striking the last sentence thereof.

(B) The table of sections for part IV of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1261. Capital gain or loss from sale or exchange of oil or natural gas and related commodities treated as short-term capital gain or loss.''.

(b) APPLICATION TO SECTION 1256 CONTRACTS.—

(1) IN GENERAL.—Section 1256(f) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES FOR CERTAIN COMMODITY CONTRACTS.—

''(A) ALL GAIN OR LOSS FROM COMMODITY CONTRACTS TREATED AS SHORT-TERM GAIN OR LOSS.—In the case of a section 1256 contract which is an applicable commodity, subsection (a)(3) shall be applied to any gain or loss with respect to such contract—

''(i) by substituting '100 percent' for '40 percent' in subparagraph (A) thereof, and

''(ii) without regard to subparagraph (B) thereof.

''(B) TREATMENT OF MIXED STRADDLES.—A taxpayer may not make an election under subsection (d), or an election under the regulations prescribed pursuant to section 1092(b)(2), with respect to any mixed straddle if any position forming a part of such straddle is a section 1256 contract which is an applicable commodity. For purposes of this subparagraph, if any section 1256 contract which is part of a straddle is an applicable commodity, any other section 1256 contract which is part of such straddle shall be treated as an applicable commodity.

''(C) APPLICABLE COMMODITY.—For purposes of this paragraph, the term 'applicable commodity' has the meaning given such term by section 1261(b), except that such section shall be applied without regard to paragraph (2) thereof.

''(D) APPLICATION.—This paragraph shall apply to any applicable commodity acquired after August 31, 2009, and before January 1, 2014.''.

(2) SPECIAL RULE FOR LOSS CARRYBACKS.—Section 1212(c) of such Code (relating to carryback of losses from section 1256 contracts to offset prior gains from such contracts) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) SPECIAL RULE FOR LOSSES ALL OF WHICH ARE TREATED AS SHORT-TERM.—If any portion of the net section 1256 contracts loss for any taxable year is attributable to a net loss from contracts to which section 1256(f)(6) applies—

''(A) this subsection shall be applied first to such portion of such net section 1256 contracts loss and then to the remainder of such loss, and

''(B) in applying this subsection to such portion—

''(i) notwithstanding paragraph (1)(B), all of the loss attributable to such portion and allowed as a carryback shall be treated as a short-term capital loss, and

''(ii) notwithstanding paragraph (6)(A), all of the loss attributable to such portion and allowed as a carryback shall be treated for purposes of applying paragraph (6) as a short-term capital gain for the loss year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applicable commodities acquired after August 31, 2009, in taxable years ending after such date.

SEC. 3. GAINS AND LOSSES FROM OIL AND NATURAL GAS AND RELATED COMMODITIES TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Section 512(b) of the Internal Revenue Code of 1986 (relating to modifications to unrelated business taxable income) is amended by adding at the end the following new paragraph:

''(20) TREATMENT OF GAINS OR LOSSES FROM COMMODITIES.—

''(A) IN GENERAL.—Notwithstanding paragraph (5) or any other provision of this part—

''(i) income, gain, or loss of an organization with respect to any applicable commodity shall not be excluded but shall be taken into account as income, gain, or loss from an unrelated trade or business, and

''(ii) all deductions directly connected with such income or gain shall be allowed.

''(B) EXCEPTION FOR ORDINARY INCOME AND LOSSES.—Subparagraph (A) shall not apply to any income, gain, or loss of an organization which, if not excluded under this title and without regard to subparagraph (A), would be treated as ordinary income or loss.

''(C) LOOK-THRU IN THE CASE OF FOREIGN CORPORATIONS.—

''(i) IN GENERAL.—If an organization owns directly or indirectly stock in a foreign corporation, the organization's pro rata share of any income, gain, or loss of such corporation (and any deductions directly connected with such income or gain) with respect to 1 or more applicable commodities shall be taken into account under subparagraph (A) in the same manner as if such commodities were held directly by the organization. Any such item shall be taken into account for the taxable year of the organization in which the item arises without regard to whether there was an actual distribution to the organization with respect to the item. For purposes of this clause, the rule under section 1261(c) shall apply in determining the income, gain,

or loss of the foreign corporation with respect to applicable commodities.

''(ii) SALE OF INTERESTS IN CORPORATION.—If a taxpayer recognizes gain or loss on the sale or exchange of any share of stock in a foreign corporation, the portion of such gain or loss which is attributable to unrecognized gain or loss with respect to 1 or more applicable commodities shall be taken into account under subparagraph (A) in the same manner as if such commodities were sold or exchanged directly by the organization.

''(iii) NO DOUBLE COUNTING.—The Secretary shall prescribe such rules as are necessary to ensure that any item of income, gain, loss, or deduction described in clause (i) or (ii) is taken into account only once for purposes of this paragraph.

''(D) APPLICABLE COMMODITY.—For purposes of this paragraph, the term 'applicable commodity' has the meaning given such term by section 1261(b), except that such section shall be applied without regard to paragraph (2) thereof.

''(E) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this paragraph, including regulations—

''(i) to prevent the avoidance of the purposes of this paragraph through the use of pass-thru entities or tiered structures, and

''(ii) to provide that this paragraph shall not apply to ownership interests of organizations in foreign corporations in cases where the income or gain of the foreign corporation from any applicable commodity is otherwise subject to tax imposed by this chapter.

''(F) APPLICATION.—This paragraph shall apply to any applicable commodity acquired after August 31, 2009, and before January 1, 2014.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applicable commodities acquired after August 31, 2009, in taxable years ending after such date.

SEC. 4. STUDY OF TAX TREATMENT OF COMMODITIES AND SECTION 1256 CONTRACTS.

(a) STUDY.—The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the Federal income tax treatment of section 1256 contracts under section 1256 of the Internal Revenue Code of 1986 and of applicable commodities under sections 1261, 1256(f)(6), and 512(b)(20) of such Code. Such study shall include an analysis of—

(1) the average annual number of sales or exchanges of such contracts and commodities, including the number of sales and exchanges involving organizations exempt from Federal income taxation under such Code,

(2) whether the amendments made by this Act have had any effect on the number or type of such sales and exchanges,

(3) the effect of tax policy on the operation of the commodities exchanges and on the demand for, and price of, commodities, particularly with respect to oil and natural gas, and

(4) such other matters with respect to such tax treatment as the Secretary determines appropriate.

(b) REPORT.—The Secretary shall, not later than January 1, 2012, report the results of the study conducted under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, together with such legislative recommendations as the Secretary determines appropriate with respect to the Federal income tax treatment of section 1256 contracts and applicable commodities.

By Ms. CANTWELL (for herself and Mr. GRASSLEY):

S. 1589. A bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I am pleased to join with my colleague, Senator GRASSLEY, and introduce an important piece of legislation that will modernize the tax incentive for domestic biodiesel production. The Biodiesel Tax Incentive Reform and Extension Act of 2009 will provide predictability to investors, to producers, and to researchers so we can move forward and continue to displace imported fossil fuels with low carbon, renewable biodiesel that is produced here in the United States.

Last year, we all saw the devastating effects that $140 per barrel oil had on our economy and our constituents. For economic reasons, national security reasons, and environmental reasons, we cannot allow ourselves to remain dependent on foreign oil. We have to redouble our efforts to deploy alternative fuels that can be produced in the United States and that can help us address the growing crisis of climate change.

Biodiesel is a diesel replacement fuel that is produced from vegetable oils, animal fats and waste oils. It is refined to meet a commercial fuel specification that is readily accepted in the marketplace. Typically biodiesel is blended with conventional diesel fuel, and it is not necessary to modify a vehicle's engine to use the fuel.

There are compelling public policy benefits associated with the production and use of biodiesel. It is an extremely efficient fuel that can be produced domestically so we do not have to rely on imported fuel. Biodiesel creates 3.2 units of energy for every unit of fuel that is required to produce the fuel and the 690 million gallons of biodiesel produced in the U.S. in 2008 displaced 38.1 million barrels of petroleum.

Replacing fossil fuel use with biodiesel also can play a constructive role in addressing the issue of climate change. When compared to conventional diesel fuel, pure biodiesel reduces direct carbon lifecycle emissions by 78 percent, which in 2008 was the equivalent of removing 980,000 passenger vehicles from the road.

Congress first enacted a tax incentive for biodiesel in 2004 and since that time, this tax credit has helped encourage the production and use of this alternative fuel. U.S. production of biodiesel increased from 25 million gallons in 2004 to 690 million gallons last year, and the industry has built the commercial scale production capacity. There currently are 176 plants in operation with the capacity to produce more than 2.61 billion gallons of biodiesel.

The 39 new plants that are either under construction or being expanded would add nearly 849.9 million gallons of production capacity. We have to be sure these plans for expansion go forward. Unfortunately, limited access to capital, uncertainty surrounding the Federal commitment to biodiesel, and the current state of the economy threaten to undermine the progress the U.S. biodiesel industry has made to build the production capacity and infrastructure needed to aggressively displace petroleum diesel fuel with renewable, low-carbon biodiesel. Right now, less than one-third of the industry's facilities are currently producing fuel.

The 51,893 jobs that are currently supported by the U.S. biodiesel industry show there is real job growth potential in this industry. Much of that job growth and economic activity will happen in our rural communities who continue to be hard hit right now.

The current law tax credit will expire at the end of this year and Congress must act or we will threaten the future of this promising domestic industry. The National Biodiesel Board estimates that if Congress does not provide some predictability to the industry, U.S. production will likely fall from 690 million gallons in 2008 to 300–350 million gallons in 2009. This could cost the U.S. economy more than 29,000 jobs. These are not jobs we can afford to lose.

In addition to the looming expiration, the current structure of the tax credit has administrative problems and is subject to abuse that makes it difficult to ensure that that only qualified fuel benefits from the incentive. We owe it to taxpayers to make sure that we are getting the results we want from the tax incentives we enact so in addition to extending the tax credit we need to make the structural changes that Sen. GRASSLEY and I are proposing today.

The centerpiece of the bill is changing the incentive from a blender credit to a production tax credit so that we focus the benefits of the incentive on building the domestic production industry. Under current law, the credit was targeted at the blending of biodiesel with petroleum diesel. While this was helpful in getting us to the point we are now, it is time we move even farther in the direction of promoting the production of petroleum fuel alternatives.

In addition, the legislation we are introducing today will simplify administration of the incentive for both taxpayers and the Internal Revenue Service, IRS, and will eliminate any remaining opportunity for abuse of the tax credit through schemes like ''splash and dash'' in which oil companies add a few drops of biodiesel to their petroleum diesel just to qualify for the tax credits.

Under our bill, the $1 per gallon tax credit will be provided for the production of biodiesel, renewable diesel and aviation jet fuel that complies with established fuel standards and Clean Air Act requirements.

For small producers, those with an annual production capacity of less than 60 million gallons, we increase the $1 to $1.10 for the first 15 million gallons of biodiesel produced.

We simplify the definition of biodiesel so that we encourage production

from any biomass-based feedstock or recycled oils and fats. Hopefully this will unleash even more research and commercialization of alternative fuel sources.

The bill also simplifies the coordination between the income tax credit and the excise tax liability to, again, tighten up compliance and reduce administrative burdens on taxpayers. Most importantly, our bill would extend this tax credit for 5 years, giving needed financial predictability to the industry.

I thank Senator GRASSLEY for joining with me on this bill and look forward to working with our colleagues on the Finance Committee to adopt this worthwhile, commonsense proposal that is consistent with sound energy and sound tax policy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Biodiesel Tax Incentive Reform and Extension Act of 2009''.

SEC. 2. REFORM OF BIODIESEL INCOME TAX INCENTIVES.

(a) IN GENERAL.—Section 40A of the Internal Revenue Code of 1986 is amended to read as follows:

''SEC. 40A. BIODIESEL PRODUCTION.

''(a) IN GENERAL.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is $1.00 for each gallon of biodiesel produced by the taxpayer which during the taxable year—

''(1) is sold by such producer to another person—

''(A) for use by such other person's trade or business (other than casual off-farm production),

''(B) for use by such other person as a fuel in a trade or business, or

''(C) who sells such biodiesel at retail to another person and places such biodiesel in the fuel tank of such other person, or

''(2) is used or sold by such producer for any purpose described in paragraph (1).

''(b) INCREASED CREDIT FOR SMALL PRODUCERS.—

''(1) IN GENERAL.—In the case of any eligible small biodiesel producer, subsection (a) shall be applied by increasing the dollar amount contained therein by 10 cents.

''(2) LIMITATION.—Paragraph (1) shall only apply with respect to the first 15,000,000 gallons of biodiesel produced by any eligible small biodiesel producer during any taxable year.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means liquid fuel derived from biomass which meets—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

Such term shall not include any liquid with respect to which a credit may be determined under section 40.

''(2) BIODIESEL NOT USED FOR A QUALIFIED PURPOSE.—If—

''(A) any credit was determined with respect to any biodiesel under this section, and

''(B) any person does not use such biodiesel for the purpose described in subsection (a),

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (a) and the number of gallons of such biodiesel.

''(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(4) LIMITATION TO BIODIESEL PRODUCED IN THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel unless such biodiesel is produced in the United States from raw feedstock. For purposes of this paragraph, the term 'United States' includes any possession of the United States.

''(5) BIODIESEL TRANSFERS FROM AN IRS REGISTERED BIODIESEL PRODUCTION FACILITY TO AN IRS REGISTERED TERMINAL OR REFINERY.—The credit allowed under subsection (a) shall be allowed to the terminal or refinery referred to in section 4081(a)(1)(B)(i) in instances where section 4081(a)(1)(B)(iii) is applicable. The credit allowed under subsection (a) cannot be claimed by a terminal or refinery on fuel upon which the credit was previously claimed by a biodiesel producer.

''(e) DEFINITIONS AND SPECIAL RULES FOR SMALL BIODIESEL PRODUCERS.—

''(1) ELIGIBLE SMALL BIODIESEL PRODUCER.—The term 'eligible small biodiesel producer' means a person who at all times during the taxable year has a productive capacity for biodiesel not in excess of 60,000,000 gallons.

''(2) AGGREGATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(2) and the 60,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

''(3) PARTNERSHIP, S CORPORATION, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(2) and paragraph (1) shall be applied at the entity level and at the partner or similar level.

''(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

''(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary—

''(A) to prevent the credit provided for in subsection (b) from directly or indirectly benefitting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of biodiesel during the taxable year, or

''(B) to prevent any person from directly or indirectly benefitting with respect to more than 15,000,000 gallons during the taxable year.

''(6) ALLOCATION OF SMALL BIODIESEL CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the increase determined under subsection (b) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—

''(i) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under subsection (b) for the taxable year of the organization.

''(ii) PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under such subsection for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

''(iii) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of the organization determined under such subsection for a taxable year is less than the amount of such credit shown on the return of the organization for such year, an amount equal to the excess of—

''(I) such reduction, over

''(II) the amount not apportioned to such patrons under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed by this chapter on the organization.

Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(f) RENEWABLE DIESEL.—For purposes of this title—

''(1) TREATMENT IN THE SAME MANNER AS BIODIESEL.—Renewable diesel shall be treated in the same manner as biodiesel.

''(2) RENEWABLE DIESEL DEFINED.—The term 'renewable diesel' means liquid fuel derived from biomass which meets—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D975 or D396, or other equivalent standard approved by the Secretary.

Such term shall not include any liquid with respect to which a credit may be determined under section 40. Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term 'biomass' has the meaning given such term by section 45K(c)(3).

''(3) CERTAIN AVIATION FUEL.—Except as provided in the last 3 sentences of paragraph (2), the term 'renewable diesel' shall include fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an

American Society of Testing and Materials specification for aviation turbine fuel.

''(g) TERMINATION.—This section shall not apply to any sale or use after December 31, 2014.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 40A and inserting the following new item:

''Sec. 40A. Biodiesel production.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to biodiesel sold or used after December 31, 2009.

SEC. 3. REFORM OF BIODIESEL EXCISE TAX INCENTIVES.

(a) IN GENERAL.—Subsection (c) of section 6426 of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) BIODIESEL CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the biodiesel credit is $1.00 for each gallon of biodiesel produced by the taxpayer and which—

''(A) is sold by such producer to another person—

''(i) for use by such other person's trade or business (other than casual off-farm production),

''(ii) for use by such other person as a fuel in a trade or business, or

''(iii) who sells such biodiesel at retail to another person and places such biodiesel in the fuel tank of such other person, or

''(B) is used or sold by such producer for any purpose described in subparagraph (A).

''(2) DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

''(3) BIODIESEL TRANSFERS FROM AN IRS REGISTERED BIODIESEL PRODUCTION FACILITY TO AN IRS REGISTERED TERMINAL.—The credit allowed under this subsection can be claimed by a registered terminal or refinery in instances where section 4081(a)(1)(B)(iii) is applicable. The credit allowed under this subsection cannot be claimed by a terminal or refinery on fuel upon which the credit was previously claimed by a biodiesel producer.

''(4) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2014.''.

(b) PAYMENT OF CREDIT.—Subsection (e) of section 6427 of such Code is amended—

(1) by striking ''or the biodiesel mixture credit'' in paragraph (1),

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) BIODIESEL CREDIT.—If any person produces biodiesel and sells or uses such biodiesel as provided in section 6426(c), the Secretary shall pay (without interest) to such person an amount equal to the biodiesel credit with respect to such biodiesel.'',

(3) by striking ''paragraph (1) or (2)'' each place it appears in paragraphs (4) and (6), as redesignated by paragraph (2), and inserting ''paragraph (1), (2), or (3)'',

(4) by striking ''alternative fuel'' each place it appears in paragraphs (4) and (6), as redesignated by paragraph (2), and inserting ''fuel'', and

(5) by striking ''biodiesel mixture (as defined in section 6426(c)(3))'' in paragraph (7)(B), as so redesignated, and inserting ''biodiesel (within the meaning of section 40A)''.

(c) EXEMPTION FOR BIODIESEL TRANSFERRED FROM A REGISTERED PRODUCER TO A REGISTERED TERMINAL.—Subparagraph (B) of section 4081(a)(1) of such Code is amended—

(1) by striking ''clause (ii)'' in clause (i) and inserting ''clauses (ii) and (iii)'', and

(2) by adding at the end the following new clause:

''(iii) EXEMPTIONS FOR BIODIESEL TRANSFERRED FROM A REGISTERED PRODUCER TO A REGISTERED TERMINAL.—The tax imposed by this paragraph shall not apply to any removal or entry of biodiesel (as defined in section 40A(d)(1)) transferred in bulk (without regard to the manner of such transfer) to a terminal or refinery if—

''(I) such biodiesel was produced by a person who is registered under section 4101 as a producer of biodiesel and who provides reporting under the ExStars fuel reporting system of the Internal Revenue Service, and

''(II) the operator of such terminal or refinery is registered under section 4101.''.

(d) PRODUCER REGISTRATION REQUIREMENT.—Subsection (a) of section 6426 of such Code is amended by striking ''subsections (d) and (e)'' in the flush sentence at the end and inserting ''subsections (c), (d), and (e)''.

(e) RECAPTURE.—Subsection (f) of section 6426 of such Code is amended to read as follows:

''(f) RECAPTURE.—

''(1) ALCOHOL FUEL MIXTURES.—If—

''(A) any credit was determined under this section with respect to alcohol used in the production of any alcohol fuel mixture, and

''(B) any person—

''(i) separates the alcohol from the mixture, or

''(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol.

''(2) BIODIESEL.—If any credit was determined under this section with respect to the production of any biodiesel and any person does not use such biodiesel for a purpose described in subsection (c)(1), then there is hereby imposed on such person a tax equal to $1 for each gallon of such biodiesel.

''(3) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) or (2) as if such tax were imposed by section 4081 and not by this section.''.

(f) CLERICAL AMENDMENT.—The heading of section 6426 of such Code (and the item relating to such section in the table of sections for subchapter B of chapter 65 of such Code) is amended by striking ''alcohol fuel, biodiesel, and alternative fuel mixtures'' and inserting ''alcohol fuel mixtures, biodiesel production, and alternative fuel mixtures''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to biodiesel sold or used after December 31, 2009.

SEC. 4. BIODIESEL TREATED AS TAXABLE FUEL.

(a) BIODIESEL TREATED AS TAXABLE FUEL.—Clause (i) of section 4083(a)(3)(A) of such Code is amended by inserting '', including biodiesel (as defined in section 6426(c)(3)),'' after ''(other than gasoline)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to biodiesel removed, entered, or sold after the date which is 6 months after the date of the enactment of this Act.

By Mrs. MURRAY (for herself and Mr. DURBIN):

S. 1591. A bill to amend the Foreign Assistance Act of 1961, to establish the Health Technology Program in the United States Agency for International Development to research and develop technologies to improve global health, and for other purposes; to the Committee on Foreign Relations.

Mrs. MURRAY. Mr. President, for a child in a developing country, very simple tools, like safe injection technologies for vaccination, can mean the difference between life and death. But the fact is that many countries are simply unable to afford such critical health technologies. Research has given us many promising early-stage technologies that could make a difference, but tragically, in many cases the promise of such technologies goes unrealized.

I know that it is sometimes tempting to think of global health as a distant goal, far removed from the lives of everyday Americans. But, as the emergence of new pandemic threats such as H1N1 flu reminds us, global health is public health—and it affects Americans right here at home. It is impossible to pick up a paper today, watch TV, or use the internet without realizing that we are more connected than ever before to people around the world.

As I speak with scientists and leaders in my State, they are excited about finding new ways to tackle tough global health problems. I hear the same enthusiasm when I speak with young people who are passionate about helping others. Of course, this growing support for global health can be seen not only in my home state, but throughout our country, in our universities and in community organizations. I know that many of my colleagues in the Senate are dedicated, tireless advocates for global health. Last year, the Congress demonstrated its strong commitment by reauthorizing the President's Emergency Plan for AIDS Relief, PEPFAR, a huge victory for global health and a strong foundation for future efforts.

In May, President Obama announced a new, comprehensive global health strategy, renewing the longstanding U.S. commitment to global health and building on the successes of programs begun during the Bush administration like PEPFAR and the President's Malaria Initiative, programs that have saved countless lives. President Obama has called for us to continue these efforts and to focus on improving the health of mothers and children and strengthening health systems in developing countries.

Developing countries urgently need technologies that will work for their health care systems, technologies that are easy-to-use, culturally appropriate, and above all affordable.

Today I am introducing the 21st Century Global Health Technology Act to support these goals by applying our country's traditional strengths in research, innovation, and entrepreneurship to global health. My bill will encourage the development of appropriate global health technologies by authorizing efforts at the US Agency for International Development, USAID, to make sure that promising health technologies are not left to sit on the shelf, but instead are developed and delivered to those in need.

Developing global health technologies is not easy or glamorous and the financial incentives for business

are few. But for many years, the USAID has supported global health technology development through an innovative model that encourages the public, non-profit, and private sectors to work together.

I urge my colleagues to support this bill because the USAID has a long and inspiring track record of success in technology development. For example, the USAID's HealthTech program meets a wide range of needs from developing tools to rapidly diagnose infectious diseases to designing safe delivery kits that keep mothers and newborns healthy. Working with non-profit and commercial-sector partners, HealthTech has investigated over 100 technologies, licensed or transferred 21 life-saving technologies designed for use in low-resource settings, and moved 10 technologies into global use.

The HealthTech program helps the USAID leverage Federal money to encourage the private sector to become involved in the fight to improve global health. In an average year, HealthTech matches the USAID's funding with cash and in-kind contributions from the private sector. The average ratio of private sector investment to USAID funding in HealthTech-developed technologies that have reached commercialization is about 9 to 1. It's a win-win model that increases the number of affordable global health technologies and provides new opportunities for U.S. companies.

Technology development at the USAID is a smart investment. However, the agency's technology development efforts currently are not authorized, so funding is often uncertain. That uncertainty prevents the USAID from pursuing many promising technologies. My bill will provide $5 million per year over 5 years to support technology development at the USAID—a small, but steady source of funding that will bring greater stability to technology development efforts and encourage more private sector partners to get involved.

Investing in global health technology is the right thing for the U.S., for our companies, for our bright young people who are pursuing careers in global health, and for our security since our well-being is linked to our ability to prevent global pandemics and to reach out to people around the world. But, most importantly, investing in global health and in affordable health technologies will save millions of lives. It is simply the right thing to do.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''21st Century Global Health Technology Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States has committed to the United Nations Millennium Development Goals of—

(A) reducing child mortality;

(B) improving maternal health; and

(C) combating HIV/AIDS, malaria, and other diseases.

(2) The goals described in paragraph (1) cannot be reached without health technologies and devices to diagnose infectious diseases and reduce disease transmission.

(3) The development, advancement, and introduction of affordable and appropriate technologies are essential to efforts by the United States to reduce deaths among the world's most vulnerable populations, particularly children and women in the developing world.

(4) A recent report by the Institute of Medicine on the commitment of the United States to global health—

(A) recommends that United States institutions share existing knowledge to address prevalent health problems in low- and middle-income countries;

(B) recommends continued support for partnerships between the public and private sectors to develop and deliver health products in low- and middle-income countries; and

(C) urges the United States Government to continue its support for innovative research models to address unmet health needs in poor countries.

(5) Investments by the United States in affordable, appropriate health technologies, such as medical devices for maternal and child care, vaccine delivery tools, safe injection devices, diagnostic tests for infectious diseases, and innovative disease prevention strategies—

(A) reduce the risk of disease transmission; and

(B) accelerate access to life-saving global health interventions for the world's poor.

(6) Through a cooperative agreement, known as the Technologies for Health program (referred to in this section as ''HealthTech''), USAID supports the development of technologies that—

(A) maximize the limited resources available for global health; and

(B) ensure that products and medicines developed for use in low-resource settings reach the people that need such products and medicines.

(7) The HealthTech cooperative agreement—

(A) facilitates public-private collaboration in the development of global health technologies;

(B) leverages public sector support for early stage research and development of health technologies to encourage private sector investment in late-stage technology development and product introduction in developing countries;

(C) benefits the United States economy by investing in the growing United States global health technology sector, which—

(i) provides skilled jobs for American workers; and

(ii) enhances United States competitiveness in the increasingly technological and knowledge-based global economy; and

(D) enhances United States national security by—

(i) reducing the risk of pandemic disease; and

(ii) contributing to economic development and stability in developing countries.

SEC. 3. PURPOSE.

The purpose of this Act is to authorize a health technology development program that supports coordinated, long-term research and development of appropriate global health technologies—

(1) to improve global health;

(2) to reduce maternal and child mortality rates; and

(3) to reverse the incidence of HIV/AIDS, malaria, and other diseases.

SEC. 4. ESTABLISHMENT OF THE HEALTH TECHNOLOGY PROGRAM.

Section 107 the Foreign Assistance Act of 1961 (22 U.S.C. 2151e) is amended by adding at the end the following:

''(c) HEALTH TECHNOLOGY PROGRAM.—(1) There is established in the United States Agency for International Development (referred to in this section as 'USAID') the Health Technology Program, which shall—

''(A) coordinate and lead research and development efforts;

''(B) be funded by USAID on a competitive basis; and

''(C) serve as a national laboratory and technology development program for global health.

''(2) The Health Technology Program shall develop, advance, and introduce affordable, available, and appropriate technologies specifically designed—

''(A) to improve the health and nutrition of developing country populations;

''(B) to reduce maternal and child mortality; and

''(C) to improve the diagnosis, prevention and reduction of disease, especially HIV/AIDS, malaria, tuberculosis, and other major diseases.

''(3) The Health Technology Program shall be located at an institution with a successful record of—

''(A) advancing the technologies described in paragraph (2); and

''(B) integrating practical field experience into the research and development process in order to introduce the most appropriate technologies.

''(4) The Administrator of USAID, in collaboration with the Health Technology Program, shall submit an annual report to Congress and all relevant Federal agencies that describes—

''(A) the relevant activities of the Health Technology Program that are in the incubation phase;

''(B) the progress made on such activities and on other projects carried out through the Health Technology Program; and

''(C) the outlook for future health technology efforts evaluated by the Health Technology Program to have significant growth potential.

''(5) There are authorized to be appropriated $5,000,000 for each of the fiscal years 2010 through 2014 to carry out the Health Technology Program under this subsection.''.

By Ms. SNOWE (for herself and Mr. CARDIN):

S. 1592. A bill to establish a Federal Board of Certification to enhance the transparency, credibility, and stability of financial markets, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. SNOWE. Mr. President, I rise today to reintroduce legislation that will increase the trustworthiness of our Nation's mortgage security market by creating the Federal Board of Certification for mortgage securities. I would like to thank Senator CARDIN for cosponsoring this vital measure.

The necessity of enacting last fall's Troubled Asset Relief Program, along with the collapse of Lehman Brothers,

and the bailouts of American International Group, Fannie Mae, Freddie Mac, and Bear Stearns, combined with the huge losses suffered throughout the financial industry, demonstrates a catastrophic failure to accurately assess the dangers of imprudently made subprime mortgages to the American public and our financial markets. In hindsight, it appears that it was the inability to gauge risk in mortgage-backed securities that caused much of this financial turmoil. For markets to operate properly, it is imperative that they have effective metrics for calculating the level of risk securities pose to investors.

The secondary mortgage market has been a largely unregulated playground where poorly underwritten, low-quality loans were sold as high-quality investment products. Although mortgage-backed securities can be a positive market force, which increases the available pool of credit for borrowers, without an accurate picture of the risk involved in each mortgage security, buyers have no idea whether they are purchasing a high-risk investment or a safe, secure investment. The legislation that I am reintroducing today would work to curb the excesses of the secondary market, combat future attempts at deception, and protect investors by making scrutinized mortgage investments more reliable and trustworthy.

The inability of major corporations to properly assess the risk of the mortgage securities they were trading is a problem whose effects have not been confined to Wall Street. To put it simply: when big banks sneeze, the rest of America gets a cold. This year, more than $1 trillion of the subprime mortgages originated during the housing boom will reset to higher interest rates.

In my home State of Maine, we are struggling with falling home prices and a record number of foreclosures. During the first half of 2009 alone, there were 1,696 filings in Maine, a number putting the State on pace to surpass the 2,851 foreclosure filings registered in 2008. Moreover, some Maine borrowers, with rising monthly payments, are unable to refinance out of their predatory loans. Small business owners, many already hurt by the economic downturn, are also finding credit tight. Finally, despite gains in recent weeks, the poor economic climate caused by the subprime credit crunch has also roiled the stock market, causing Americans to lose billions in their IRAs and retirement funds.

We must address crisis and make sure it never happens again. Turning to specifics, my bill creates the Federal Board of Certification, which would certify that the mortgages within a security instrument meet the underlying standards they claim in regards to documentation, loan to value ratios, debt service to income ratios, and borrowers' credit standards. The purpose of the certification process is to increase the transparency, predictability, and reliability of securitized mortgage products. Certification would aid in creating settled investor expectations and increase transparency by ensuring that the mortgages within a mortgage security conform to the claims made by the mortgage product's sellers.

The proposed Federal Board of Certification would not override any current regulations and would not in any way stifle any attempts by private business to rate mortgage securities. This legislation would, however, create incentives for improving industry rating practices. Open publication of the Board's certification criteria would augment the efforts of private ratings agencies by providing incentives for increased transparency in the ratings process. The Board's certification would also serve as a check on the industry to ensure that ratings agencies carefully scrutinize the content of mortgage products before issuing evaluations of mortgage backed securities.

Significantly, the Federal Board of Certification would also be voluntary and funded by an excise tax. Users could choose to pay the costs for the Board to rate their security, or they could elect not to submit their product to the Board.

We must quickly restore confidence in mortgage securities if we are to stabilize our housing markets. To do so, we must certify the quality and content of our mortgage securities to enable housing markets to generate liquidity and spur lending. This is why it is urgent to create the Federal Board of Certification for mortgage securities. This legislation would create a ''good housekeeping seal of approval'' for the mortgage security industry and certify that the mortgage products are in fact what they claim to be. Accordingly, I call on Congress to take up and pass this commonsense legislation as expeditiously as possible, particularly as part of a comprehensive overhaul of our financial markets that Congress must consider in short order to ensure that the calamitous events of the past year are never again repeated.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Board of Certification Act of 2009''.

SEC. 2. PURPOSE.

It is the purpose of this Act to establish a Federal Board of Certification, which shall certify that the mortgages within a security instrument meet the underlying standards they claim to meet with regards to mortgage characteristics including but not limited to: documentation, loan to value ratios, debt service to income ratios, and borrower credit standards and geographic concentration. The purpose of this certification process is to increase the transparency, predictability and reliability of securitized mortgage products.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term ''Board'' means the Federal Board of Certification established under this Act;

(2) the term ''mortgage security'' means an investment instrument that represents ownership of an undivided interest in a group of mortgages;

(3) the term ''insured depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1803); and

(4) the term ''Federal financial institutions regulatory agency'' has the same meaning as in section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302).

SEC. 4. VOLUNTARY PARTICIPATION.

Market participants, including firms that package mortgage loans into mortgage securities, may elect to have their mortgage securities evaluated by the Board.

SEC. 5. STANDARDS.

The Board is authorized to promulgate regulations establishing enumerated security standards which the Board shall use to certify mortgage securities. The Board shall promulgate standards which shall certify that the mortgages within a security instrument meet the underlying standards they claim to meet with regards to documentation, loan to value ratios, debt service to income rations and borrower credit standards. The standards should protect settled investor expectations, and increase the transparency, predictability and reliability of securitized mortgage products.

SEC. 6. COMPOSITION.

(a) ESTABLISHMENT; COMPOSITION.—There is established the Federal Board of Certification, which shall consist of—

(1) the Comptroller of the Currency;

(2) the Secretary of Housing and Urban Development;

(3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board;

(4) the Undersecretary of the Treasury for Domestic Finance; and

(5) the Chairman of the Securities and Exchange Commission.

(b) CHAIRPERSON.—The members of the Board shall select the first chairperson of the Board. Thereafter the position of chairperson shall rotate among the members of the Board.

(c) TERM OF OFFICE.—The term of each chairperson of the Board shall be 2 years.

(d) DESIGNATION OF OFFICERS AND EMPLOYEES.—The members of the Board may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Board.

(e) COMPENSATION AND EXPENSES.—Each member of the Board shall serve without additional compensation, but shall be entitled to reasonable expenses incurred in carrying out official duties as such a member.

SEC. 7. EXPENSES.

The costs and expenses of the Board, including the salaries of its employees, shall be paid for by excise fees collected from applicants for security certification from the Board, according to fee scales set by the Board.

SEC. 8. BOARD RESPONSIBILITIES.

(a) ESTABLISHMENT OF PRINCIPLES AND STANDARDS.—The Board shall establish, by rule, uniform principles and standards and report forms for the regular examination of mortgage securities.

(b) DEVELOPMENT OF UNIFORM REPORTING SYSTEM.—The Board shall develop uniform

reporting systems for use by the Board in ascertaining mortgage security risk. The Board shall assess, and publicly publish, how it evaluates and certifies the composition of mortgage securities.

(c) AFFECT ON FEDERAL REGULATORY AGENCY RESEARCH AND DEVELOPMENT OF NEW FINANCIAL INSTITUTIONS SUPERVISORY AGENCIES.—Nothing in this Act shall be construed to limit or discourage Federal regulatory agency research and development of new financial institutions supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal regulatory agency.

(d) ANNUAL REPORT.—Not later than April 1 of each year, the Board shall prepare and submit to Congress an annual report covering its activities during the preceding year.

(e) REPORTING SCHEDULE.—The Board shall determine whether it wants to evaluate mortgage securities at issuance, on a regular basis, or upon request.

SEC. 9. BOARD AUTHORITY.

(a) AUTHORITY OF CHAIRPERSON.—The chairperson of the Board is authorized to carry out and to delegate the authority to carry out the internal administration of the Board, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) USE OF PERSONNEL, SERVICES, AND FACILITIES OF FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES, AND FEDERAL RESERVE BANKS.—In addition to any other authority conferred upon it by this Act, in carrying out its functions under this Act, the Board may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal financial institutions regulatory agencies, and Federal Reserve banks, with or without reimbursement therefor.

(c) COMPENSATION, AUTHORITY, AND DUTIES OF OFFICERS AND EMPLOYEES; EXPERTS AND CONSULTANTS.—The Board may—

(1) subject to the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act, and to prescribe the authority and duties of such officers and employees; and

(2) obtain the services of such experts and consultants as are necessary to carry out this Act.

SEC. 10. BOARD ACCESS TO INFORMATION.

For the purpose of carrying out this Act, the Board shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal financial institutions regulatory agencies, including reports of examination of financial institutions, their holding companies, or mortgage lending entities from whatever source, together with work papers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

SEC. 11. REGULATORY REVIEW.

(a) IN GENERAL.—Not less frequently than once every 10 years, the Board shall conduct a review of all regulations prescribed by the Board, in order to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions.

(b) PROCESS.—In conducting the review under subsection (a), the Board shall—

(1) categorize the regulations described in subsection (a) by type; and

(2) at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome.

(c) COMPLETE REVIEW.—The Board shall ensure that the notice and comment period described in subsection (b)(2) is conducted with respect to all regulations described in subsection (a), not less frequently than once every 10 years.

(d) REGULATORY RESPONSE.—The Board shall—

(1) publish in the Federal Register a summary of the comments received under this section, identifying significant issues raised and providing comment on such issues; and

(2) eliminate unnecessary regulations to the extent that such action is appropriate.

(e) REPORT TO CONGRESS.—Not later than 30 days after carrying out subsection (d)(1) of this section, the Board shall submit to the Congress a report, which shall include a summary of any significant issues raised by public comments received by the Board under this section and the relative merits of such issues.

SEC. 12. LIABILITY.

Any publication, transmission, or webpage containing an advertisement for or invitation to buy a mortgage security shall include the following notice, in conspicuous type: ''Certification by the Federal Board of Certification can in no way be considered a guarantee of the mortgage security. Certification is merely a judgment by the Federal Board of Certification of the degree of risk offered by the security in question. The Federal Board of Certification is not liable for any actions taken in reliance on such judgment of risk.''.

By Mr. MERKLEY:

S. 1595. A bill to amend the Truth in Lending Act to prohibit the distribution of any check or other negotiable instrument as part of a solicitation by a creditor for an extension of credit, to limit the liability of consumers in conjunction with such solicitations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. MERKLEY. Mr. President, in recent years, consumer credit has gone from providing convenience and short-term financing to a game of tricks and traps that strips families of hard earned resources and locks the middle class into a vicious cycle of debt. Today, I introduce legislation to end one of those deceptive practices—the unsolicited mailing of ''live'' loan checks.

Deceptive loan checks have afflicted consumers, especially seniors, for far too long. In these schemes, financial institutions send unsuspecting customers checks made out to them for some amount. Customers often assume that their financial institutions have sent refunds or some other business-related sum and unknowingly deposit the checks. However, fine print on these checks actually makes them high-cost loans.

Bank regulators have failed for years to rein in these deceptive products. In Oregon, one of my elderly constituents—a veteran of the Korean war—ended up in a subprime mortgage because he unknowingly deposited a deceptive loan check that he never requested. Sadly, instead of being able to cancel the loan, he was pushed into rolling this unwanted loan into his mortgage, which was then transformed from a safe, fixed rate mortgage that had nearly been paid off, into a brand new, subprime mortgage. As this case shows, deceptive products and practices lead our consumers into dangerous, high cost debt. If individuals wish to take out high cost loans, they should have every right to do so, but financial institutions should make those transactions plain and straightforward, not tricky and deceptive.

To address this situation, I am introducing the Deceptive Loan Check Elimination Act. Under the act, financial institutions would be prohibited from sending a ''live'' loan check unless the consumer requested such a check in writing. Consumers would not be liable for any debt incurred in violation of the act. This common sense solution protects consumers without constricting credit for those who want it. The legislation is endorsed by Consumer Action, Consumers Federation of America, Consumers Union, the National Consumer Law Center, on behalf of its low income clients, and the U.S. Public Interest Research Group.

I am hopeful that the Senate will act quickly to address this problem. In addition, the next step in restoring a fair playing field for working families is to move ahead quickly to create the Consumer Financial Protection Agency, a body with the authority to review and regulate financial tricks and traps like ''live'' loan checks.

I urge my colleagues to join me in this and future efforts to restore honesty and plain dealing to our consumer credit markets.

By Mrs. BOXER:

S. 1596. A bill to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I rise to discuss the Gold Hill-Wakamatsu Preservation Act. This legislation would authorize the Bureau of Land Management to acquire and manage the Gold Hill Ranch near Coloma, California. This site was the location of the Wakamatsu Tea and Silk Colony from 1869 to 1871, recognized by the State of California and Japanese American Citizens League as the first Japanese settlement in the United States.

After Commodore William Perry opened Japanese ports to U.S. trade, the weakness of Japan's shoguns was exposed, leading to a revolution and return to imperial rule under the Meiji emperor. In 1869, seven Japanese individuals and a European expatriate fled the turmoil in Japan and sailed across the Pacific to San Francisco aboard a side wheeler called the ''China.'' The group made their way eastwards and purchased land in Gold Hill. Within 2 years, the colony grew to 22 Japanese settlers and began producing traditional Japanese crops such as tea, silk, rice, and bamboo. The Japanese colonists and surrounding community

learned about each others' culture and agricultural techniques. Local and San Francisco newspapers wrote about the colony, and the settlers began to receive acceptance in American society.

Unfortunately, the colony was short-lived—drought and financial problems forced the group to disperse and settle throughout California beginning in 1871. The Veerkamp family, which owned neighboring lands, purchased the property in 1875. Despite the short history of the colony, it was an important milestone that helped bridge Japanese and American cultures and paved the way for large-scale emigration of Japanese settlers to the United States. It also contributed to major Japanese influences on the agricultural economy of California.

Many of the original structures on the site remain intact, including a farmhouse, the grave of a young girl named Okei, numerous artifacts, and agricultural plantings. Japanese-Americans and other visitors come to see the site and place offerings on Okei's grave. As a testament to the cultural exchanges that occurred at this site, the Gold Trail Middle School, located on an in-holding carved out of this site, now maintains an exchange program with a sister school in Wakamatsu, Japan. Governor Reagan recognized the property as a State historic site in 1969, and the site is currently being considered for listing on the National Register of Historic Places.

The 272-acre ranch encompassing the original colony site has been passed down for generations through the Veerkamp family. Thanks to the hard work of the American River Conservancy and Wakamatsu Gold Hill Colony Foundation as well as the generous accommodation of the Veerkamp family, the site has been preserved for visitors to come and learn about the history of the Wakamatsu colonists and Japanese-American culture. The site provides multiple other benefits, including wildlife habitat, open space with hiking trails and picnic areas, and grazing and pastureland. The family and non-profit partners agree that federal acquisition would help guarantee that the site's cultural history, agricultural character, and open space are permanently preserved for generations to come. The Bureau of Land Management is well-suited to manage this site since it has an excellent relationship with the local community and manages several other sites nearby.

This project is supported by the Japanese American Citizens League, the National Japanese American Historical Society, the Consul General of Japan, the Governor of Fukishima Prefecture and the Mayor of Wakamatsu in Japan, People-to-People International, the El Dorado County Board of Supervisors, the El Dorado County Chamber of Commerce, numerous elected officials including Assemblyman Ted Gaines, who represents this district, and numerous other members of the local community.

The significance of this site for Japanese Americans has been compared to the significance of the Mayflower journey and Plymouth Rock landing for European Americans. This site is testament to Japanese history, California's agricultural economy, and the American tradition of bringing together people of diverse cultures in the common pursuit of freedom and prosperity. I look forward to working with my Senate colleagues to move this legislation and preserve the story of the Wakamatsu colonists for future generations.

By Mr. LEAHY (for himself, Mr. CHAMBLISS, and Mr. PRYOR):

S. 1599. A bill to amend title 36, United States Code, to include in the Federal charter of the Reserve Officers Association leadership positions newly added in its constitution and bylaws; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, today, I am pleased to introduce the Reserve Officers Association Modernization Act of 2009. I want to thank Senators CHAMBLISS and PRYOR for joining me to introduce this legislation. As the co-chairs of the United States Senate Reserve Caucus, Senators CHAMBLISS and PRYOR have worked hard for the brave men and women of the United States Reserves.

Over the past decade, our country has relied on the National Guard and Reserves more than at any other time in recent history. The Guard and Reserves provide an invaluable contribution to our Nation's military, our national security, and disaster relief efforts. In recent years the National Guard and Reserves have demonstrated their position as a keystone to our military operations, particularly in Iraq and Afghanistan, and stepped forward repeatedly to answer the call-to-duty at a tempo not seen in decades. At the same time, the support from the Guard and Reserves for homeland duties has been at an all time high. The Guard and Reserves have provided crucial support to our Governors and States during natural disasters such as the aftermath of Hurricane Katrina. In addition, they have assumed additional roles in homeland security as our country has adopted new policies following the attacks of September 11, 2001. This new era for the Guard and Reserves prompted Congress and the Department of Defense to review many existing and but outdated policies.

The 95-member U.S. Senate National Guard Caucus, which I cochair along with Senator BOND, plays an integral role in the review and implementation of new policies. I have worked closely with groups like the Reserve Officers Association, ROA, to ensure that the National Guard and Reserves have access to more affordable health care, a greater influence in the military, adequate training facilities and supplies, and shorter troop deployments in Iraq and Afghanistan.

Since its founding in 1922, the ROA has worked on behalf of the National Guard and Reserves and their families. For over 85 years, ROA has remained committed to its original mission, to ''support and promote the development and execution of a military policy for the United States that will provide adequate National security.'' The Reserve Officers Association represents the Reserve Components officers for the Army, Air Force, Navy, Marine Corps, Coast Guard, the Air and Army National Guard, Public Health Service, and the officers of the National Oceanic and Atmospheric Administration.

This legislation would update the Reserve Officers Association's Federal Charter to reflect two recent changes in the organization. First, it would add the position of ''president elect'' to its constitution and bylaws. Second, it would expand the ROA from only three national executive committee members to include three representatives from each of the seven branches of the uniformed services. The Reserve Officers Association's charter has not been modified since 1998 and this legislation would update it to correctly reflect the current operation of the organization and enable ROA to continue its good work.

The Reserve Officers Association has provided a voice to the men and women that serve our country in the National Guard and Reserves. I urge Senators on both sides of the aisle to show their support for the brave members of the National Guard and Reserves by enacting this legislation swiftly.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reserve Officers Association Modernization Act of 2009''.

SEC. 2. INCLUSION OF NEW LEADERSHIP POSITIONS IN THE FEDERAL CHARTER OF THE RESERVE OFFICERS ASSOCIATION.

(a) NATIONAL EXECUTIVE COMMITTEE.—Section 190104(b)(2) of title 36, United States Code, is amended—

(1) by inserting ''the president elect,'' after ''the president,'';

(2) by inserting ''a minimum of'' before ''3 national executive committee members,''; and

(3) by striking ''except the executive director,'' and inserting ''except the president elect and the executive director,''.

(b) OFFICERS.—Section 190104(c) of such title is amended—

(1) in paragraph (1)—

(A) by inserting ''a president elect,'' after ''a president,'';

(B) by inserting ''a minimum of'' before ''3 national executive committee members,'';

(C) by striking ''a surgeon, a chaplain, a historian, a public relations officer,''; and

(D) by striking ''as decided at the national convention'' and inserting ''specified in the constitution of the corporation''; and

(2) in paragraph (2)—

(A) by inserting ''and take office'' after ''be elected'' ; and

(B) by striking ''and the national public relations officer,'' and inserting ''the judge advocate, and any other national officers specified in the constitution of the corporation,''.

(c) VACANCIES.—Section 190104(d)(1) of such title is amended by striking ''president and last past president,'' and inserting ''president, president elect, and last past president,''.

(d) RECORDS AND INSPECTION.—Section 190109(a)(2) of such title is amended by striking ''national council;'' and inserting ''other national entities of the corporation;''.

Mr. UDALL of Colorado:

S. 1601. A bill to provide for the release of water from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, today I am introducing along with my friend and colleague, Senator BENNET, the Ruedi Reservoir Water Allocation for Recovery of Endangered Fish Act. This bill will help address endangered fish issues in the Colorado River on Colorado's western slope by allowing the U.S. Bureau of Reclamation to release the remaining un-marketed water in Ruedi Reservoir for recovery purposes.

The Ruedi Reservoir is a component of the Fryingpan-Arkansas Project, a U.S. Bureau of Reclamation project, located on the Fryingpan River in western Colorado. The primary purposes of Ruedi are to provide storage of replacement water that allows out-of-priority diversions by the project to Colorado's east slope, and to provide marketable water for Colorado's west slope uses. A little more than one-third of Ruedi's marketable yield is currently under contract with limited prospects for foreseeable future contracting.

In 1999, the U.S. Fish and Wildlife Service, FWS, issued a programmatic biological opinion, PBO, for a critical reach of the Colorado River in Colorado related to recovery efforts for four fish species listed as endangered under the Endangered Species Act, ESA. The PBO provides ESA compliance for five Reclamation projects: the Fryingpan-Arkansas Project, including Ruedi Reservoir, the Colorado-Big Thompson Project, the Colbran Project, the Grand Valley Project, and the Silt Project.

The PBO also provides ESA compliance for all existing non-federal water projects and water users of the Colorado River upstream of the Gunnison River depleting approximately 1 million acre-feet per year and for 120,000 acre-feet per year of new depletions. As part of the PBO, Colorado water users agreed to provide 10,825 acre-feet per year for fish recovery from interim water sources until 2010, by which time permanent sources of water must be identified and agreements completed between water users and the FWS to provide the permanent source or sources of water.

Water users have identified the required permanent sources of water for endangered fish. Half of the 10,825 acre-feet per year requirement will be met from converting a historical agricultural water right and half from uncontracted, unobligated Ruedi Reservoir water. Reclamation has initiated NEPA compliance on Federal actions related to providing 10,825 acre-feet per year for endangered fish. This bill provides that the NEPA process be completed before authorizing Reclamation to apply the marketable yield to ESA benefits.

In regards to costs, the reimbursable capital costs for the Ruedi Reservoir were assigned separately in the authorizing legislation to east and west slope beneficiaries of the project. The east slope's obligation of $7.6 million was assigned to Southeastern Colorado Water Conservancy District under a conventional Reclamation master contract for the 28,000 acre-feet replacement pool. The obligation to repay Ruedi Reservoir's $9.3 million cost was assigned to the marketable yield for the west slope's benefit, and this was to be re-paid by water contracts from this pool for west slope uses. There is no traditional, master contract with a west slope project ''sponsor'' for this portion of the project's cost recovery. A little more than one-third of the available marketable yield pool is currently under contract. Given that there are limited prospects for foreseeable future contracting, permanent assignment of 5,412.5 acre-feet of water for endangered fish recovery is prudent and appropriate.

To effectuate this new arrangement, the bill would amend Public Law 106–392 to permanently assign 5,412.5 acre-feet of water in Ruedi Reservoir from the west slope's marketable yield pool to endangered fish recovery and associated cost reallocation to non-reimbursable purposes. In so doing, the bill would accomplish a number of goals such as ensure continued ESA compliance for all east and west slope Colorado River main stem water users upstream of the Gunnison River, provide water from Ruedi Reservoir at affordable rates for potential future contracting, and provide consistency with long-standing Congressional policy and Reclamation law that water dedicated to fish and wildlife purposes from Reclamation projects is a non-reimbursable cost. The bill would also ensure compliance with Colorado law regarding the purposes of Ruedi Reservoir, namely that the marketable yield pool is available for the benefit of west slope water users by providing ESA compliance for uses of this water.

As with most issues related to water in the west, and especially in Colorado, one facility like the Ruedi Reservoir can affect many interests and values. This bill would provide mutual benefits to water users throughout the Colorado River. It is an example where we can reach consensus to continue to provide needed water to communities while also preserving fish species.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1601

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENDANGERED FISH RECOVERY IMPLEMENTATION PROGRAMS.

(a) DEFINITIONS.—Section 2 of Public Law 106–392 (114 Stat. 1602) is amended by adding at the end the following:

''(11) MARKETABLE YIELD POOL.—The term 'marketable yield pool' means the portion of the regulatory capacity that, as of the date of enactment of this paragraph, is dedicated to marketing purposes.

''(12) REGULATORY CAPACITY.—The term 'regulatory capacity' has the meaning given the term in the publication entitled 'Operating Principles, Fryingpan-Arkansas Project, Adopted by the State of Colorado, April 30, 1959 (as amended December 30, 1959, and December 9, 1960)', as printed as House Document No. 130 in accordance with House Resolution 91, 87th Congress, agreed to March 15, 1961.

''(13) RUEDI RESERVOIR.—The term 'Ruedi Reservoir' means the component of the Fryingpan-Arkansas Project of the Bureau of Land Management that is located—

''(A) on the Fryingpan River; and

''(B) in western Colorado.''.

(b) AUTHORIZATION TO FUND RECOVERY PROGRAMS.—Section 3 of Public Law 106–392 (114 Stat. 1603) is amended—

(1) by redesignating subsections (e) through (h) as subsections (f) through (i), respectively; and

(2) by inserting after subsection (d) the following:

''(e) ALLOCATION OF RUEDI RESERVOIR MARKETABLE YIELD POOL.—

''(1) RELEASE OF WATER.—For fiscal year 2013, and each fiscal year thereafter, at the request of the Director of the United States Fish and Wildlife Service (referred to in this subsection as the 'Director'), 5,412.5 acre-feet of water shall be released from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River.

''(2) TIMING OF RELEASE.—To the maximum extent practicable, and unless otherwise requested by the Director, the release of water under paragraph (1) shall occur during the late summer months to enhance low water flows in areas that comprise the endangered fish habitat in the Colorado River.

''(3) NO REQUIREMENT FOR CONTRACT OR OTHER AGREEMENT.—The release of water under paragraph (1) may be carried out without the formation or execution of any contract or other agreement.

''(4) REIMBURSEMENT.—The capital, operational, maintenance, and replacement costs that arise from the release of water under paragraph (1) shall not be reimbursable.

''(5) EFFECT.—The release of water under paragraph (1) shall satisfy 50 percent of the obligation of certain water users to provide 10,825 acre-feet of water, as described in the document—

''(A) entitled 'Final Programmatic Biological Opinion for Bureau of Reclamation's Operations and Depletions, Other Depletions, and Funding and Implementation of Recovery Program Actions in the Upper Colorado River above the Confluence with the Gunnison River'; and

''(B) published by the Director on December 20, 1999.

''(6) EFFECTIVE DATE.—This subsection shall take effect on the date on which the Secretary complies with the National Environmental Policy Act of 1969 (42 U.S.C. 4321

et seq.) regarding the release of water under paragraph (1).''.

By Mr. UDALL, of Colorado (for himself and Mr. BENNET):

S. 1602. A bill to amend title 10, United States Code, to ensure that excess oil and gas lease revenues are distributed in accordance with the Mineral Leasing Act, and for other purposes; to the Committee on Armed Services.

Mr. UDALL of Colorado. Mr. President, today I am introducing a revised version of the Naval Oil Shale Reserve Mineral Royalty Revenue Allocation Act that I previously introduced on August 4, 2009. This bill is the same as the one I previously introduced, but it corrects an error regarding the allocation of outstanding mineral royalties to four counties in Colorado instead of two—those four counties being Garfield, Rio Blanco, Mesa and Moffat. This revised version also makes it clear that the mineral royalty allocated to these four counties would not affect the normal allocations to those counties under the ''payment in lieu of taxes'' program. In all other respects, the bill and its purposes remain the same. It is a bill designed to release mineral royalty receipts to Colorado where the receipts were generated from gas development within this reserve on the western slope near Rifle, Colorado.

By way of background, in 1997, Congress transferred the federal Naval Oil Shale Reserve lands in western Colorado from the U.S. Department of Energy, DOE, to the U.S. Bureau of Land Management, BLM, and directed the BLM to begin leasing the oil and gas resources under these lands. The Transfer Act also directed that the royalties recouped from this leasing program be set aside and the state portion not disbursed to Colorado until the Interior Department and the DOE certified that enough money from the royalty receipts accrued to satisfy two purposes.

The first was to provide funding to clean up the Anvil Points site on these lands. Anvil Points was an oil shale research facility that operated within the Naval Oil Shale Reserve for about 40 years. The facility was operated by DOE at one point, and private industry performed research there under contract. Waste material was produced at this facility from oil shale mining and processing. That waste accumulated in a pile of about 300,000 cubic yards of spent oil shale and other material—including arsenic and other heavy metals—which rests on slopes below the facility.

The second purpose was for the reimbursement of certain costs related to the transfer.

Following the transfer to the BLM, this area experienced significant natural gas leasing and, as a result, significant royalty revenue was generated.

On August 8, 2008, the DOI and DOE certified that adequate funds had accrued to accomplish the goals of cleanup and cost reimbursement and subsequently allocated all royalty revenue generated after this date according to the Mineral Leasing Act, which establishes that Colorado receive a proportionate share.

However, considerably more revenue accrued than was necessary to accomplish the cleanup and cost reimbursement goals. This bill would direct that this additional royalty revenue be allocated to Colorado according to the formulas and processes established for the disbursement of federal mineral royalties under the Mineral Leasing Act.

The bill also directs that the Colorado share of this remaining royalty revenue be allocated to the four Counties directly impacted by oil and gas leasing on the Naval Oil Shale Reserve lands—specifically, Garfield, Rio Blanco, Mesa, and Moffat Counties. Finally, this bill makes it clear that these royalty payments shall not affect the funds that these Counties normally receive under the ''payment in lieu of taxes''—or PILT—program.

Based on figures provided by the BLM, there remains approximately $17 million in these accounts for Colorado's royalty revenue share. This bill would make Colorado whole and provide it with its rightful share of the remaining royalty revenue to address critical local needs and impacts from the very leasing that produced the royalty revenue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF OIL SHALE RESERVE RECEIPTS.

Section 7439(f) of title 10, United States Code, is amended by adding at the end the following:

''(3)(A) The moneys deposited in the Treasury under paragraph (1) that exceed the amounts described in subparagraphs (A) and (B) of paragraph (2) shall be transferred by the Secretary of the Treasury in accordance with section 35 of the Mineral Leasing Act (30 U.S.C. 191) to the State of Colorado for use in accordance with subparagraph (B).

''(B)(i) Of the amounts to be distributed under subparagraph (A), the Secretary of the Treasury shall transfer—

''(I) 40 percent to Garfield County, Colorado;

''(II) 40 percent to Rio Blanco County, Colorado;

''(III) 10 percent to Moffat County, Colorado; and

''(IV) 10 percent to Mesa County, Colorado.

''(ii) The amounts provided to the counties under clause (i) shall be used by the counties, or any cities or political subdivisions within the counties to which the funds are transferred by the counties, to mitigate the effects of oil and gas development activities within the affected counties, cities, or political subdivisions.

''(iii) Amounts provided to the counties under clause (i) shall not be considered for the purpose of calculating payments for the counties under chapter 69 of title 31, United States Code.''.

By Mr. WHITEHOUSE (for himself, Mr. DURBIN, and Mr. SESSIONS):

S. 1606. A bill to require foreign manufacturers of products imported into the United States to establish registered agents in the United States who are authorized to accept service of process against such manufacturers, and for other purposes; to the Committee on Finance.

Mr. WHITEHOUSE. I rise to speak in support of the Foreign Manufacturers Legal Accountability Act of 2009, which I am introducing today with the ranking member of the Judiciary Committee, Senator SESSIONS, and Senator DURBIN. This bipartisan bill is an important step in protecting American consumers and businesses from injuries caused by defective products manufactured outside the United States. Those products hurt American consumers—they lead to serious injuries, and even death—and they hurt the American businesses that must deal with angry customers, product recalls, and unusable inventory.

The list of recent examples of Americans injured by defective foreign products is shocking. Last year, a contaminated blood thinner from a foreign manufacturer caused severe medical reactions and contributed to numerous deaths. In 2006, a foreign-made, lead-tainted charm bracelet claimed the life of a 4-year-old. The autopsy demonstrated that the charm was 99 percent lead, 1,650 times more than the 0.06 percent lead limit specified in enforcement guidelines for children's jewelry. Imported food products from seafood to honey have been contaminated with unthinkable chemicals, including veterinary drugs banned in domestic production, potentially harmful antibiotics, and unapproved food additives. Sixty million packages of pet food contaminated with tainted wheat gluten have been recalled in the last two years. Substandard tires have failed, leading to fatalities. Most recently, defective drywall imported from China has been found to contain excessively high levels of sulfur, causing houses to smell like rotten eggs, corroding copper wiring, and making expensive appliances fail. Thousands of homes may be affected.

At a hearing that I chaired in May, the Subcommittee on Administrative Oversight and the Courts explored the legal hurdles facing consumers who are injured by defective foreign products and by businesses that find that their foreign partners refuse to honor their contracts. These hurdles allow foreign manufacturers to continue to injure American businesses and consumers, and also put American manufacturers at a competitive disadvantage since they allow foreign manufacturers to offer cheaper products that do not comply with American safety requirements. Two major hurdles to proper accountability are the inability to serve

process on the foreign manufacturer and the ability of that foreign manufacturer, even if served, to evade the jurisdiction of American courts. As the witnesses testified at the hearing, legislation that addresses these issues is necessary and appropriate. The Foreign Manufacturers Legal Accountability Act addresses both concerns.

The first problem, the inability to serve process on a manufacturer, essentially means that it is difficult for an American to give a foreign manufacturer the documents necessary to give it the legally required notice that it is the subject of a lawsuit. This sounds like a simple step, and it should be. Unfortunately, however, it is very hard to serve process on foreign companies abroad. As witnesses explained at the hearing in May, service abroad is complicated by the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters, to which the United States is a signatory. Under that convention, a complaint must be translated into the foreign language, transmitted to the Central Authority in the foreign country, and then delivered according to the rules of service in the home country of the defendant. This can cause months and even years of delay, not to mention great expense for Americans.

The Foreign Manufacturers Legal Accountability Act will allow Americans to overcome that procedural hurdle by serving legal papers inside the United States on registered agents of foreign manufacturers. The bill requires the heads of federal government agencies such as the Food and Drug Administration to pass regulations requiring that foreign manufacturers of products regulated by their agencies register an agent who will accept service of process. It allows regulators to exclude manufacturers who only import a minimal amount of products into the United States. It imposes a minimal burden on foreign manufacturers, since they would only have to appoint one agent to accept service of process for all state and federal regulatory and civil actions anywhere in the United States. The bill allows the manufacturer to choose any location for that agent with a ''substantial connection to the importation, distribution, or sale of the products of such foreign manufacturer or producer.'' This clear and straightforward system will allow Americans to commence their lawsuits fairly and promptly, and ensure that foreign manufacturers have proper and fair notice of the proceedings brought against them. It will not conflict with American obligations under the Hague convention, since that convention applies to service of process on foreign manufacturers in their home countries, not in the United States.

The second hurdle, the inability to establish personal jurisdiction over foreign manufacturers, can end a lawsuit against a foreign manufacturer before it even begins. Think about how unfair this is. A foreign manufacturer sells its defective products in the United States, injures American consumers and businesses, and then argues that it is not subject to the courts in the state where the American was injured—in legal parlance, that the courts do not have personal jurisdiction over it. As witnesses explained at the hearing, foreign manufacturers raise this technical legal defense to avoid liability even when serious injuries or even death have been caused by their products—their defective tires, fireworks, exercise equipment, bikes, and toys.

The Foreign Manufacturers Legal Accountability Act will enable injured Americans to surmount this hurdle. It will make clear to foreign manufacturers that by importing their products into the United States and by registering an agent in the United States, they are consenting to the jurisdiction of the courts in the state where their agent is located. By consenting to jurisdiction, the manufacturers will avert unnecessary and expensive legislation about technical legal issues and allow courts to settle the merits of disputes. This approach is fair to foreign manufacturers since all American manufacturers are subject to the jurisdiction of the courts of at least one state. This bill therefore complies with the trade principle that we should not subject foreign manufacturers to burdens not already imposed on domestic manufacturers.

Indeed, the Foreign Manufacturers Legal Accountability Act is ultimately about fairness. We all know American manufacturers comply with regulations that ensure the safety of American consumers and businesses. When they fail to do so, they must answer to regulators and are held accountable through the American tort system. Unfortunately, however, foreign manufacturers are not being held to the same standards—injuring American consumers and businesses, and putting American manufacturers at a competitive disadvantage. We must level the playing field for all manufacturers and provide justice for American consumers and businesses. The Foreign Manufacturers Legal Accountability Act will allow us to make a major step in that direction. It covers major product categories including consumer goods, drugs, cosmetics, and chemicals, and it requires relevant agencies to study workable approaches to ensure that foreign food producers also are brought within the ambit of the American legal system.

Protecting Americans and holding foreign manufacturers accountable when their products harm American consumers and businesses is a bipartisan issue. Everyone agrees that we should do what we can to keep Americans safe from defective products. So too, I think, do we all agree that American companies should not be at a competitive disadvantage to their foreign counterparts. The Foreign Manufacturers Legal Accountability Act builds on those fundamental agreements. I am grateful to my colleagues Senator SESSIONS and Senator DURBIN for their hard work on this bill and look forward to working with my colleagues on both sides of the aisle to see it passed into law.

Mr. SESSIONS. Mr. President, Senator WHITEHOUSE's legislation would help American consumers bring civil claims against foreign manufacturers who produce faulty goods and send them into the U.S. market. Currently, it is nearly impossible for harmed American consumers to bring a tort action against foreign manufacturers of products that are flawed or even dangerous. Foreign manufacturers are often difficult to identify or locate and even if found, the process of seeking damages against them is extremely costly and burdensome. Without the threat of litigation, foreign manufacturers have little to no accountability to their American consumers, resulting in lower quality and often defective products. Furthermore, American companies who unknowingly buy shoddy products from foreign manufacturers and then resell them to consumers become the sole defendant in tort cases filed against them when foreign defendants cannot be located. According to the Consumer Product Safety Commission, Chinese manufacturers were responsible for 69 percent of all product recalls in 2007 and 53 percent in 2008. These numbers demonstrate the need for Congress to take action to protect American consumers. Senator WHITEHOUSE's proposal is a positive step in the right direction.

I have witnessed the effects of this problem firsthand in my State. Mr. Chuck Stefan from Alabama testified before the Subcommittee on Administrative Oversight and the Courts, which Senator WHITEHOUSE chairs and I serve as ranking member, about the hardships his business has faced in seeking damages against a foreign manufacturer. Mr. Stefan is a Senior Executive Vice President at the The Mitchell Company, a homebuilder in Alabama, Florida, and Mississippi. Forty-five of the houses he built have been identified as containing a defective type of Chinese sheetrock, which produces corrosive gases. These gases are not merely unpleasant. They damage the copper found in piping and wiring systems. When the problem was first discovered, The Mitchell Company could not even determine who manufactured the drywall as it was only stamped ''made in China.'' When the manufacturing parties were finally identified as both Chinese and German-based, it was a substantial and costly burden to serve them properly even though the companies had extensive operations in the United States. Mr. Stefan emphasized the fact that when foreign manufacturers cannot be held accountable, it hurts his company's bottom line and harms U.S. consumers.

Stores such as Mr. Stefan's are becoming all too common and it is incumbent upon Congress to work towards ameliorating the burdens that U.S. businesses and consumers face when seeking damages against foreign manufacturers. This issue is one that affects consumers nationwide. I am grateful to Senator WHITEHOUSE for taking the initiative to ensure that Congress does its part in solving this problem.

By Ms. CANTWELL (for herself, Mrs. MURRAY, Ms. MURKOWSKI, and Mr. BEGICH):

S. 1609. A bill to authorize a single fisheries cooperative for the Bering Sea Aleutian Islands longline catcher processor subsector, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, today I introduce the Longline Catcher Processor Subsector Single Cooperative Act.

In Washington State, our history is based on a rich maritime tradition that contributes billions of dollars to the state's economy each year. There are 3,000 vessels in Washington's fishing fleet that employ 10,000 fishermen. Seafood processors employ another 3,800 Washingtonians. And fish wholesalers employ an additional 1,000 people.

For many communities along this nation's coastlines, the economy literally ebbs and flows with the tide. It is important to remember that the ocean resources these communities depend on are a public trust and a resource to be both treasured and protected.

As guardians of the ocean and its plentiful resources, it is necessary that we examine all issues of ''ownership'' with care, transparency, and fairness. The issue of fishery cooperatives has proved to be an issue that demands nothing less.

In July of 2008, I chaired a hearing in the Commerce Committee's Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard, examining the impact of fishery management regimes on fishing safety and conservation. Following that hearing and numerous meetings with stakeholders to discuss the policy, safety, economic, and environmental implications of fishing cooperatives, I am here today to introduce the Longline Catcher Processor Subsector Single Cooperative Act, legislation that would allow for the formation of a single fishing cooperative in the Pacific cod catcher processor fleet.

Instead of fishermen racing against each other and the elements to catch as much as they can, this bill would allow the fishermen to bring some sanity back to their livelihoods. Under this legislation, the Pacific cod catcher processor fishery can allocate the catch among their members, putting an end to the very dangerous ''race for fish.''

The cooperative would empower commercial fishermen with the framework and incentives to police themselves while still preserving the crucial regulatory and oversight responsibilities of the federal government and the North Pacific Fishery Management Council.

By adopting this bill, we can improve fishing safety in the Pacific cod catcher processor fishery by putting an end to the ''race for fish.'' Doing so would lessen the fishery's environmental footprint, and give these fishermen the financial certainty that has worked for others across this Nation.

Fishing safety is a real concern that must be addressed at the federal level. In 2006, the Coast Guard reported that in the decade from 1994 to 2004, 1,398 fishing vessels were lost tragic—reminders of what can go wrong at sea.

Most of these fishing-related fatalities occur in the North Pacific, where the fishermen from my home state of Washington make their living. The difficult waters equate to the highest casualty rates in the nation, and highest rates of fatality and injury among fisherman.

But the North Pacific's rough waters are not the only factor these fishermen have to cope with.

It is a tough business—tough for those who work the boats and those who make the business-end decisions. It's a business that is driven by incentives and dangerous conditions that work in tandem to place countless numbers of fishermen at risk.

When things go wrong, it is usually because of failures at multiple levels. You see, it's not always about vessels. Nor is it all about inspections, safety equipment, or training. Fishing safety is closely related to how fisheries are managed and the very foundation fishing has come to be built upon: competition.

Without legislation such as this, the fisheries will continue to operate on a foundation of destructive competition, or a ''race for fish.'' And this race for fish is a very dangerous race.

According to Lieutenant Christopher Woodley, the former fishing Vessel Safety Coordinator of the 13th U.S. Coast Guard District based in Seattle:

> This race encourages fishermen to operate in all weather and sea conditions, to operate without rest, and encourages risk-taking behaviors.

But we can change that.

By instituting a cooperative style of fishery management through this legislation, we dramatically change the incentives. And by changing the incentives to put a new premium on safety, we can change the way people fish and hopefully prevent future tragedies at sea.

Safety is not the only goal of this legislation. This legislation aims to make environmental and economic improvements to the process of fishing.

By eliminating the ''race for fish,'' as I mentioned before, we effectively slow the pace of fishing meaning commercial fishermen can optimize onboard processing facilities. The result is an increase in the product recovery rate per pound of fish caught, meaning they can use more parts of the fish and make wiser and more efficient use of our precious ocean resources. A slower pace also decreases bycatch and promotes ownership of the fishery, which will facilitate a conservation mindset in the fishermen.

We have once again shifted the incentive from reckless speed to doing things slower, better, smarter, and more environmentally conscious.

Furthermore, the Longline Catcher Processor Subsector Fisheries Cooperative Act means greater job stability for the Pacific cod freezer longliner fleet's workers.

When fishermen no longer race, the fishing season lasts longer. This means more stability and predictability for crew members, and eliminates the boom and bust cycle that often prevails today.

I want to be clear that this bill is not yet a finished product. I welcome comments, suggestions, and criticisms to help make this bill good public policy for everyone involved.

As we discuss issues like safety of our fisherman and environmental implications to our oceans, it's imperative that we commit to an open and transparent process that shines the light of accountability.

Both in fisheries management, fishing safety, and those areas where the two intersect, transparency must be the rule.

We owe it to our coastal communities, our fisherman, and the American public collectively as stewards of one of our greatest public resources—our oceans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Longline Catcher Processor Subsector Single Fishery Cooperative Act''.

SEC. 2. AUTHORITY TO APPROVE AND IMPLEMENT A SINGLE FISHERY COOPERATIVE FOR THE LONGLINE CATCHER PROCESSOR SUBSECTOR IN THE BSAI.

(a) IN GENERAL.—Upon the request of eligible members of the longline catcher processor subsector holding at least 80 percent of the licenses issued for that subsector, the Secretary is authorized to approve a single fishery cooperative for the longline catcher processor subsector in the BSAI.

(b) LIMITATION.—A single fishery cooperative approved under this section shall include a limitation prohibiting any eligible member from harvesting a total of more than 20 percent of the Pacific cod available to be harvested in the longline catcher processor subsector, the violation of which is subject to the penalties, sanctions, and forfeitures under section 308 of the Magnuson-Stevens Act (16 U.S.C. 1858), except that such limitation shall not apply to harvest amounts from quota assigned explicitly to a

CDQ group as part of a CDQ allocation to an entity established by section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

(c) CONTRACT SUBMISSION AND REVIEW.—The longline catcher processor subsector shall submit to the Secretary—

(1) not later than November 1 of each year, a contract to implement a single fishery cooperative approved under this section for the following calendar year; and

(2) not later than 60 days prior to the commencement of fishing under the single fishery cooperative, any interim modifications to the contract submitted under paragraph (1).

(d) DEPARTMENT OF JUSTICE REVIEW.—Not later than November 1 before the first year of fishing under a single fishery cooperative approved under this section, the longline catcher processor sector shall submit to the Secretary a copy of a letter from a party to the contract under subsection (c)(1) requesting a business review letter from the Attorney General and any response to such request.

(e) IMPLEMENTATION.—The Secretary shall implement a single fishery cooperative approved under this section not later than 2 years after receiving a request under subsection (a).

(f) STATUS QUO FISHERY.—If the longline catcher processor subsector does not submit a contract to the Secretary under subsection (c) then the longline catcher processor subsector in the BSAI shall operate as a limited access fishery for the following year subject to the license limitation program in effect for the longline catcher processor subsector on the date of enactment of this Act or any subsequent modifications to the license limitation program recommended by the Council and approved by the Secretary.

SEC. 3. HARVEST AND PROHIBITED SPECIES ALLOCATIONS TO A SINGLE FISHERY COOPERATIVE FOR THE LONGLINE CATCHER PROCESSOR SUBSECTOR IN THE BSAI.

A single fishery cooperative approved under section 2 may, on an annual basis, collectively—

(1) harvest the total amount of BSAI Pacific cod total allowable catch, less any amount allocated to the longline catcher processor subsector non-cooperative limited access fishery;

(2) utilize the total amount of BSAI Pacific cod prohibited species catch allocation, less any amount allocated to a longline catcher processor subsector non-cooperative limited access fishery; and

(3) harvest any reallocation of Pacific cod to the longline catcher processor subsector during a fishing year by the Secretary.

SEC. 4. LONGLINE CATCHER PROCESSOR SUBSECTOR NON-COOPERATIVE LIMITED ACCESS FISHERY.

(a) IN GENERAL.—An eligible member that elects not to participate in a single fishery cooperative approved under section 2 shall operate in a non-cooperative limited access fishery subject to the license limitation program in effect for the longline catcher processor subsector on the date of enactment of this Act or any subsequent modifications to the license limitation program recommended by the Council and approved by the Secretary.

(b) HARVEST AND PROHIBITED SPECIES ALLOCATIONS.—Eligible members operating in a non-cooperative limited access fishery under this section may collectively—

(1) harvest the percentage of BSAI Pacific cod total allowable catch equal to the combined average percentage of the BSAI Pacific cod harvest allocated to the longline catcher processor sector and retained by the vessel or vessels designated on the eligible members license limitation program license or licenses for 2006, 2007, and 2008, according to the catch accounting system data used to establish total catch; and

(2) utilize the percentage of BSAI Pacific cod prohibited species catch allocation equal to the percentage calculated under paragraph (1).

SEC. 5. AUTHORITY OF THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.

(a) IN GENERAL.—Nothing in this Act shall supersede the authority of the Council to recommend for approval by the Secretary such conservation and management measures, in accordance with the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) as it considers necessary to ensure that this Act does not diminish the effectiveness of fishery management in the BSAI or the Gulf of Alaska Pacific cod fishery.

(b) LIMITATIONS.—

(1) Notwithstanding the authority provided to the Council under this section, the Council is prohibited from altering or otherwise modifying—

(A) the methodology established under section 3 for allocating the BSAI Pacific cod total allowable catch and BSAI Pacific cod prohibited species catch allocation to a single fishery cooperative approved under this Act; or

(B) the methodology established under section 4 of this Act for allocating the BSAI Pacific cod total allowable catch and BSAI Pacific cod prohibited species catch allocation to the non-cooperative limited access fishery.

(2) No sooner than 7 years after approval of a single fisheries cooperative under section 2 of this Act, the Council may modify the harvest limitation established under section 2(b) if such modification does not negatively impact any eligible member of the longline catcher processor subsector.

(c) PROTECTIONS FOR THE GULF OF ALASKA PACIFIC COD FISHERY.—The Council may recommend for approval by the Secretary such harvest limitations of Pacific cod by the longline catcher processor subsector in the Western Gulf of Alaska and the Central Gulf of Alaska as may be necessary to protect coastal communities and other Gulf of Alaska participants from potential competitive advantages provided to the longline catcher processor subsector by this Act.

SEC. 6. RELATIONSHIP TO THE MAGNUSON-STEVENS ACT.

(a) IN GENERAL.—Consistent with section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)), a single fishery cooperative approved under section 2 of this Act is intended to enhance conservation and sustainable fishery management, reduce and minimize bycatch, promote social and economic benefits, and improve the vessel safety of the longline catcher processor subsector in the BSAI.

(b) TRANSITION RULE.—A single fishery cooperative approved under section 2 of this Act is deemed to meet the requirements of section 303A(i) of the Magnuson-Stevens Act (16 U.S.C. 1853a(i)) as if it had been approved by the Secretary within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, unless the Secretary makes a determination, within 30 days after the date of enactment of this Act, that application of section 303A(i) of the Magnuson-Stevens Act to the cooperative approved under section 2 of this Act would be inconsistent with the purposes for which section 303A was added to the Magnuson-Stevens Act.

(c) COST RECOVERY.—Consistent with section 304(d)(2) of the Magnuson-Stevens Act (16 U.S.C. 1854(d)(2)), the Secretary is authorized to recover reasonable costs to administer a single fishery cooperative approved under section 2 of this Act.

SEC. 7. COMMUNITY DEVELOPMENT QUOTA PROGRAM.

Nothing in this Act shall affect the western Alaska community development program established by section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)), including the allocation of fishery resources in the directed Pacific cod fishery.

SEC. 8. DEFINITIONS.

In this Act:

(1) BSAI.—The term ''BSAI'' has the meaning given that term in section 219(a)(2) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2886).

(2) BSAI PACIFIC COD TOTAL ALLOWABLE CATCH.—The term ''BSAI Pacific cod total allowable catch'' means the Pacific cod total allowable catch for the directed longline catcher processor subsector in the BSAI as established on an annual basis by the Council and approved by the Secretary.

(3) BSAI PACIFIC COD PROHIBITED SPECIES CATCH ALLOCATION.—The term ''BSAI Pacific cod prohibited species catch allocation'' means the prohibited species catch allocation for the directed longline catcher processor subsector in the BSAI as established on an annual basis by the Council and approved by the Secretary.

(4) COUNCIL.—The term ''Council'' means the North Pacific Fishery Management Council established under section 302(a)(1)(G) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(G)).

(5) ELIGIBLE MEMBER.—The term ''eligible member'' means a holder of a license limitation program license, or licenses, eligible to participate in the longline catcher processor subsector.

(6) GULF OF ALASKA.—The term ''Gulf of Alaska'' means that portion of the Exclusive Economic Zone contained in Statistical Areas 610, 620, and 630.

(7) LONGLINE CATCHER PROCESSOR SUBSECTOR.—The term ''longline catcher processor subsector'' has the meaning given that term in section 219(a)(6) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2886).

(8) MAGNUSON-STEVENS ACT.—The term ''Magnuson-Stevens Act'' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

By Ms. CANTWELL (for herself, Mr. VITTER, Ms. LANDRIEU, Mrs. MURRAY, and Mr. MARTINEZ):

S. 1610. A bill to amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I am pleased to join with my colleagues Senators VITTER, LANDRIEU, MURRAY, and MARTINEZ and introduce the American Shipping Reinvestment Act of 2009. This legislation will build on work Congress started in 2004 to strengthen the U.S. merchant marine, create needed jobs in U.S. ship building, and stimulate economic activity in our maritime sector.

Since our Nation's founding, the maritime sector has been integral to U.S. national security and economic

security. American companies own and operate both U.S. flag ships and a significant number of vessels under international registries. The U.S. flag fleets of these companies generally are built in the United States and are manned with U.S. seafarers. These U.S. flag fleets support not only the shipbuilding industrial base in this country and the pool of qualified seafarers, but they also create the shipping assets that are needed for military sealift in time of war or national emergency.

Most people understand commercial shipping and understand that we maintain a fleet of ships for military purposes. What may not be as well known is that the international ships of some American-owned companies are part of what is called the effective U.S.-controlled fleet, EUSC fleet. The EUSC is the fleet of merchant vessels registered in certain foreign nations that are available for requisition, use, or charter by the U.S. Government in the event of war or national emergency.

For example, U.S. flag commercial vessels and their American crews transported the majority of the cargo—more than 25 million measurement tons of cargo—in support of Operations Enduring Freedom and Iraqi Freedom during the period of 2002–2008.

What people also may not know is that the EUSC fleet has been in decline for the past quarter century, largely because of U.S. tax policy. Following enactment of certain 1986 tax law changes, there was a precipitous decline in American-owned international shipping. To remain competitive, many American-owned shipping companies either became foreign companies or simply divested themselves of their foreign assets.

A 2002 study commissioned by the Department of Defense and performed by professors at the Massachusetts Institute of Technology found that the EUSC fleet dropped by 38 percent in terms of numbers of ships and nearly 55 percent in terms of deadweight tonnage between 1986 and 2000. Perhaps more importantly, these declines have been largely experienced in militarily-useful vessel types. For example, the results of a 2002 DOD study found that if the EUSC fleet continues its present decline, DOD's ability to support U.S. military tanker requirements will diminish over time.

Fortunately, Congress recognized this problem in 2004 and addressed it by enacting the tonnage tax regime as part of the American Jobs Creation Act. Our legislation today builds on that policy by correcting an oversight in the 2004 act that has continued to stymie the ability of U.S. shipbuilding companies to invest in new ships in the United States.

We have very strong economic and national security reasons to support U.S. owned shipowning companies and to maintain a vibrant maritime industry in this country. We also have to continue to support needed changes in our tax code so that we provide operators of U.S. flag vessels in international trade the opportunity to be competitive with their tax-advantaged foreign competitors.

Notwithstanding the significant competitive disadvantages between 1986 and 2004 for American companies operating international ships, there continues to be several U.S. owned shipping companies with foreign operations, and our legislation is directed as helping them sustain and grow their U.S. flag fleets and to maintain their EUSC fleets. This bill will help these companies make needed investment in the U.S. economy, and create jobs in a way that also will enhance national security.

Specifically, The American Shipping Reinvestment Act of 2009 would repeal an outdated section of the Internal Revenue Code and allow U.S. shipping companies with foreign income earned prior to 1986 to reinvest it into the U.S. for the purpose of growing their U.S. flag operations.

Congress first included foreign shipping income in Subpart F in 1975, which meant that all shipping income was taxable at the full U.S. corporate tax rate no matter whether it was invested abroad or in the United States. However, a temporary rule, applicable to foreign shipping income earned from 1975 to 1986, continued to allow for deferral in cases where this income was reinvested in qualifying shipping activities. Section 955 of the Internal Revenue Code provided that this income would be included in gross income, i.e., taxed, immediately under Subpart F in the event of any net decrease in qualified shipping investments.

The American Jobs Creation Act of 2004 restored for shipping income the normal tax rule under which non-Subpart F income of foreign subsidiaries is not taxed by the United States until it is repatriated, generally as a dividend. In restoring the potential for deferral for certain shipping income, Congress in 2004 returned the treatment of shipping income to where it was prior to 1975.

Unfortunately, Congress did not address the rules under IRC Section 955 that apply to income earned between 1975 and 1986, thus creating a situation that this income is permanently stranded offshore. Our bill would repeal IRC Section 955 and will allow these stranded assets to be reinvested in the United States under the favorable tax terms that were in effect for other companies and industries in 2004. Specifically, the legislation provides a one-time opportunity for American-owned shipping companies to bring foreign source income back into the United States at a discounted tax rate for the purpose of expanding and growing our domestic maritime industry. Without the commonsense change in our legislation, these old, stranded assets will never return to the United States and never be subject to U.S. taxation.

The bill is guaranteed to create jobs for American workers with the funds being brought back into the U.S. economy—on the ships, in the shipyards building the ships, and in supporting businesses. The bill contains a provision that would recapture any tax benefits if a shipping company reduces its full-time U.S. employment levels.

This bill also would enhance U.S. national security interests by supporting shipyards that are vital to our defense industrial base, by enabling new U.S. flag tanker capacity to transport our Nation's energy products, and by providing DOD with critical assets—manpower and ships—necessary to help sustain military sealift.

The bill is strongly supported by maritime labor, shipyards, and ship owners and operators and can provide a boost to the U.S. maritime industry at a time when the U.S. is struggling to find its economic footing. The jobs created by this legislation are well-paying, long-term jobs in a crucial sector of our Nation's economy. I urge my colleagues to join me and my other original cosponsors in supporting this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Shipping Reinvestment Act of 2009''.

SEC. 2. REPEAL OF QUALIFIED SHIPPING INVESTMENT WITHDRAWAL RULES.

(a) IN GENERAL.—Section 955 of the Internal Revenue Code of 1986 (relating to withdrawal of previously excluded subpart F income from qualified investment) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 951(a)(1)(A) of the Internal Revenue Code of 1986 is amended by adding ''and'' at the end of clause (i) and by striking clause (iii).

(2) Section 951(a)(1)(A)(ii) is amended by striking '', and'' at the end and inserting '', except that in applying this clause amounts invested in less developed country corporations described in section 955(c)(2) (as so in effect) shall not be treated as investments in less developed countries.''.

(3) Section 951(a)(3) of such Code (relating to the limitation on pro rata share of previously excluded subpart F income withdrawn from investment) is hereby repealed.

(4) Section 964(b) of such Code is amended by striking '', 955,''.

(5) The table of sections for subpart F of part III of subchapter N of chapter 1 of such Code is amended by striking the item relating to section 955.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations ending on or after the date of the enactment of this Act, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. 3. ONE-TIME TEMPORARY DIVIDENDS RECEIVED DEDUCTION FOR PREVIOUSLY UNTAXED FOREIGN BASE COMPANY SHIPPING INCOME.

(a) IN GENERAL.—In the case of a corporation which is a United States shareholder and for which an election under this section is made for the taxable year, for purposes of the Internal Revenue Code of 1986, there shall be allowed as a deduction in computing taxable income under section 63 of such Code an amount equal to 85 percent of the cash distributions which are received during such taxable year by such shareholder from controlled foreign corporations to the extent that the distributions are attributable to income—

(1) which was derived by the controlled foreign corporation in taxable years beginning before January 1, 2005, and

(2) which would, without regard to the year earned, be described in section 954(f) (as in effect before the enactment of the American Jobs Creation Act of 2004).

(b) INDIRECT DIVIDENDS.—A rule similar to the rule of section 965(a)(2) of the Internal Revenue Code of 1986 shall apply, determined by treating cash distributions which are so attributable as cash dividends.

(c) LIMITATION.—The amount of dividends taken into account under this section shall not exceed the amount permitted to be taken into account under paragraphs (1), (3) (determined by substituting ''December 31, 2008'' for ''October 3, 2004''), and (4) of section 965(b) of the Internal Revenue Code of 1986, determined as if such paragraphs applied to this section.

(d) TAXPAYER ELECTION AND DESIGNATION.—For purposes of subsection (a), a taxpayer may, on its return for the taxable year to which this section applies—

(1) elect to apply paragraph (3) of section 959(c) of the Internal Revenue Code of 1986 before paragraphs (1) and (2) thereof, and

(2) designate the extent, if any, to which a cash distribution reduces a controlled foreign corporation's earnings and profits attributable to—

(A) foreign base company shipping income (determined under section 954(f) of the Internal Revenue Code of 1986 as in effect before the enactment of the American Jobs Creation Act of 2004), or

(B) other earnings and profits.

(e) ELECTION.—

(1) IN GENERAL.—The taxpayer may elect to apply this section to—

(A) the taxpayer's last taxable year which begins before the date of the enactment of this Act, or

(B) the taxpayer's first taxable year which begins during the 1-year period beginning on such date.

(2) TIMING OF ELECTION AND ONE-TIME ELECTION.—Such election may be made for a taxable year—

(A) only if made on or before the due date (including extensions) for filing the return of tax for such taxable year, and

(B) only if no election has been made under this section or section 965 of the Internal Revenue Code of 1986 with respect to the same distribution for any other taxable year of the taxpayer.

(f) REDUCTION IN BENEFITS FOR FAILURE TO MAINTAIN EMPLOYMENT LEVELS.—

(1) IN GENERAL.—If, during the period consisting of the calendar month in which the taxpayer first receives a distribution described in subsection (a) and the succeeding 23 calendar months, the taxpayer does not maintain an average employment level at least equal to the taxpayer's prior average employment, an additional amount equal to $25,000 multiplied by the number of employees by which the taxpayer's average employment level during such period falls below the prior average employment (but not exceeding the aggregate amount allowed as a deduction pursuant to subsection (a)) shall be taken into account as income by the taxpayer during the taxable year that includes the final day of such period.

(2) PRIOR AVERAGE EMPLOYMENT.—For purposes of this paragraph, the taxpayer's ''prior average employment'' shall be the average number of full time equivalent employees of the taxpayer during the period consisting of the 24 calendar months immediately preceding the calendar month in which the taxpayer first receives a distribution described in subsection (a).

(3) AGGREGATION RULES.—In determining the taxpayer's average employment level and prior average employment, all domestic members of a controlled group (as defined in section 264(e)(5)(B) of the Internal Revenue Code of 1986) shall be treated as a single taxpayer.

(g) SPECIAL RULES.—Rules similar to the rules of subsections (d) and (e) and paragraphs (3), (4), and (5) of subsection (c) of section 965 of the Internal Revenue Code of 1986 shall apply for purposes of this section.

(h) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after the date of the enactment of this Act.

By Mr. GREGG (for himself, Mr. KENNEDY, Ms. COLLINS, Mr. DODD, Mr. MARTINEZ, Mr. HARKIN, Ms. SNOWE, and Ms. MIKULSKI):

S. 1611. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, this morning, 660,000 police officers and 300,000 firefighters across the country will get up and go to work to protect our homes, our families, and our communities. They will go into burning buildings, patrol our streets, and put their lives on the line, because they believe in the importance of what they are doing.

These dedicated workers are in the trenches every day making life-or-death decisions, and their experiences give them tremendous knowledge about how to protect our country. We need to listen to their recommendations and consider their advice. Unfortunately, however, all too often, our first responders have no voice in the decisions that affect their lives and their livelihoods. Their input is disregarded because they don't have the same rights as other workers.

Workers in the private sector who want a voice on the job have the right to form and join a union. They can fight for a safer, fairer workplace. But 300,000 police and 70,000 firefighters live in States in which their State governments deny them the fundamental right to a voice on the job. Even if these workers overwhelmingly agree that they want to form and join a union, their State government says they can't have one.

That is not fair. We are asking these workers to do so much for their communities—the least we can do in return is give them a voice at the table in the life-and-death discussions and decisions that affect their families and their futures. They deserve the opportunity to choose for themselves whether they want the advantages that unions bring.

That is why it is an honor to join Senator GREGG and Senator DODD in sponsoring the Public Safety Employer-Employee Cooperation Act to guarantee that our first responders will have a path they can use to decide if they want a union. If the workers don't want a union, they don't have to follow that path. But the State has to make it available and let the workers choose.

It won't be difficult for States to create this path. All they have to do is provide four basic rights: the right to form and join a union; the right to sit down at the table and talk; the right to sign a contract if both parties agree; and the right to go to a neutral third party when there are disputes.

Apart from these four rights, all the other details of the collective bargaining system are left up to the States. They have the flexibility to decide whether to exempt small communities. They decide how workers can select a union. They can also decide how workers and employers should resolve disputes—through arbitration, mediation, factfinding, or some other mechanism.

This bipartisan bill has been carefully drafted to preserve a balance between the interests of State and local governments and the rights of the workers they employ. It has been the product of years of careful negotiations, including a hearing and two markups in the HELP Committee. It was passed by the House of Representatives in the last Congress with an overwhelming bipartisan margin, including 98 Republican votes. No it is time to get it across the finish line and give our dedicated first responders the fair treatment they deserve. It is a matter of fundamental fairness and an urgent matter of public safety.

I commend Senator GREGG for his leadership on this very important issue, and I urge my colleagues to show these heroes the respect they deserve by supporting the Public Safety Employer-Employee Cooperation Act.

By Mr. BENNET:

S. 1613. A bill to reduce the Federal budget deficit in a responsible manner; to the Committee on the Budget.

Mr. BENNET. Mr. President, I cannot tell you how much I appreciated your remarks—I was sitting in the chair—and those of Chairman DODD as well. The hour is late. The idea that you would be here at that hour to talk about something as important as health care is appreciated, I know, by the people in your State, but also by the people in my State as well. So I say thank you for that.

I also want to talk about health care. I want to talk about health care in the context of fiscal discipline in this country. As you know, our Nation's annual deficits are staggering, and our

national debt is absolutely unsustainable. For the future of our country and for our children's sake, as we recover from this devastating blow to our economy, we have to stand together and begin to start the difficult, but essential, work of putting our fiscal house in order.

Health care reform must help solve this Nation's fiscal problems, not make them worse. To accomplish this, effective reform must bend the cost curve in health care spending both in the private and public sectors.

In part because of years of neglect and inaction, this Congress has reached a defining moment of reckoning. Rising health care costs, especially Medicare costs, are now the largest driver of our deficits. Our Nation's health care spending, as you were just saying, is 17 percent of our Nation's gross domestic product and is expected to grow to over 20 percent of GDP in 10 years, on its way, as you said, to 35 percent.

Health care alone—just health care—will soon account for one-fifth of our economy. This represents a greater share of the GDP than our manufacturing, agricultural, forestry, mining, and construction industries combined.

As we emerge from this terrible recession, the worst since the Great Depression, we cannot commit one-fifth of our economy to health care and expect to compete effectively in the global marketplace.

Adding to the urgency of the problem, this recession has made rocketing health care costs even more painful for families and businesses in the last 15 months. Both large businesses and small businesses have cut some 5.1 million jobs, and 2.4 million of these newly unemployed workers have lost the health coverage their jobs once provided. Now the same people must try to find insurance in the individual market where they can be rejected by private insurance companies for preexisting conditions such as asthma, diabetes, or even cancer.

Health care costs are strangling opportunities for working families and small businesses all over my State and the country. As health care costs rise, families are forced to make choices no one should have to make between insuring their families or their employees and sending their kids to college, taking lower paying jobs with less responsibility just for the medical benefits and defaulting on their mortgage payments to pay for their medical bills.

Every one of these examples springs from the experiences of people in my State. And it is no mystery why people are having to make these terrible choices. Middle-class wages are not even close to keeping up with these rising insurance costs. While median family income in this country fell by $300 during the last decade—staggering, by the way; over a decade in real dollars, median family income in the United States actually declined by $300—health care costs increased over the same period by 80 percent.

The cost of health insurance is eating into family budgets faster and faster. Over the past decades, premiums for Colorado families, as this chart shows us, have more than doubled, growing four times faster than wage increases. The cost of premiums for a Colorado family is over $13,000 today. If we do nothing, by 2016, Colorado families will be spending over $25,000 on their premiums, a 90-percent increase. We have come out of a period with an 85-percent increase, and if we do nothing, we are going to end up in a period with a 90-percent increase, with no real increase in wages.

Left unaddressed, this imbalance, which is the creation of our catastrophically inefficient health care system, will destroy the middle class in this country. If we do nothing, if we continue on with the status quo, by 2016, just 7 years from now—and I believe these numbers are very similar to the ones you quoted for Rhode Island—by 2016, 40 cents of every dollar a typical Colorado family earns will be eaten up by health care costs, leaving just 60 cents for everything else.

Think about it. That is almost half an average family's income. Money spent not to educate their children, not to feed them or house them, but just to cover the cost of the family health care plan. And that is just paying for coverage. Never mind if you actually get sick.

In 2007, 62 percent of the personal bankruptcies in this country were due to medical costs. Traditionally, most people's employers help pay for cost increases. That has been the case for over many years. But I heard from employers all over Colorado having to make tough choices—cutting back on benefits and laying off more costs to their employees.

In the coming years, copays for Coloradans will go up double digits. More Coloradans are being forced into health plans with higher deductibles, and more employers are getting out of the business of providing health insurance for their employees altogether.

Mr. President, we won't be able to completely flatten the health care cost curve in the short run, and we should be careful not to overpromise, but we have to make the rising cost of health care something our economy can plausibly absorb.

Part of the solution is reducing waste and curbing overpayments to insurance companies, and part of the answer is encouraging patients to seek preventive care. Small businesses may not see health costs go down immediately, but we sure can slow their rise. And we have to work hard to make sure they do not rise this quickly. Reforming our health care system could save over 100,000 small business jobs in the coming years that would otherwise be lost if we do nothing.

I agree with bipartisan voices saying that our first health care goal has to be to drive down costs, and we must start with Medicare. As I travel throughout Colorado, I have met countless physicians, nurses, and hospital workers who tell me about the perverse incentives in Medicare. Instead of being paid to spend time with patients and produce better quality care, doctors and nurses are paid for the number of patients they see in the shortest amount of time and the number of procedures they perform. This is no way to produce patient-centered care, and it is no way to reduce cost.

Medicare doesn't just influence, as you know, the care of the elderly and disabled. As the largest health care program in the United States, Medicare influences every level of health care. Private insurance and employer-based health care look to Medicare as they make decisions on what to pay doctors, nurses, and hospitals. Owing to the perverse incentives in Medicare, however, since 1970—since 1970—every year for almost 40 years, year-in and year-out, Medicare spending per person has risen by over 8 percent each year, and private insurance spending per person has risen by over 9 percent each year.

If we expect reform to begin to gain any traction, we must drive cost down at the Federal level first. We can start by paying doctors and nurses to actually do what they are supposed to do and what they want to do—be focused on patients. We have to reform the system so that we are paying for quality and not volume. We must improve care, produce savings, and slow down cost growth by bundling payments, paying for performance and outcomes, and providing better coordinated care for patients and providers.

The burden is on us to meet the public expectation that we will drive down costs in the health care system and make it more efficient, that we will make the health care marketplace more competitive, and that we will provide affordable, stable health care coverage to the American people that can't be taken away because they lose a job, have a preexisting condition, or have reached some arbitrary cap.

Controlling health care costs would help our fiscal situation a great deal, and that is one of the fundamental reasons health care reform is needed. But this alone will not be enough to fill the deepening hole of national debt that threatens America's prosperity. The fiscal decisions we make today matter so much because they will dictate the well-being and range of choices of the generations that follow us.

Sometimes, with the daily hail of press clippings, these issues may seem overly complex, but I like to use a pretty simple analogy. The way we run our government is not different than if you or I were to buy a house—probably a bigger one than we reasonably could afford—and then we tell the bank to please send the mortgage documents to our kids. Imagine how that burden—paying for mom and dad's house—would constrain our children's choices. What dreams would they have to defer

because their first obligation was a debt they didn't even incur.

My three daughters, ages 9, 8 and 5, have never had an economics class, but I can tell you that as much as they love their mom and dad, if asked, they would never do that deal—especially my 5-year-old, Anne. Whether we are taking her blanket away or telling her to stop sucking her thumb or putting a mountain of debt on her, she knows a raw deal when she sees one.

We in Congress owe the next generation much more than this, as the chairman, Senator DODD, was saying. We ought to be able to build on our roles as parents and community leaders to respect our children, come together, and plan America's way back to fiscal health. The longer we wait, the more difficult the choices become. If we wait 10 years, we will face a massive gap between our spending and the revenue the government collects. If we wait 10 years to take action, we would have to increase individual income taxes by almost 90 percent to keep pace. That is an unacceptable outcome for Colorado's families. If you don't like tax increases, fine, then we would have to slash Federal spending by almost one-half. That would mean massive cuts to Medicare, our Nation's defense, and other critical initiatives that keep our country strong. No one wants to be put in a position to make those kinds of choices either. These outcomes are unacceptable, yet we can see them coming. That is why inaction is so unacceptable on health care and also on returning to policies of fiscal discipline. It is long past time to put in place the policies that will reverse this condition. And as with any deep hole, the first order of business is to stop digging.

The good news is that we have a tried-and-true way to stop making matters worse. In the 1990s, we had Pay-Go, which effectively forced the shovel from Congress's hands and made Congress stop digging. Pay-Go means that before Congress can create new spending on permanent programs, it needs to figure out how to pay for that new spending, just as every family in the States we represent.

Pay-Go helped turn 1980s deficits into 1990s surpluses, and we actually began to pay down our debt. Pay-Go is commonsense budgeting. It is not any different, as I just said, than what a family does when its spending gets out of hand. When that bad credit card statements comes in the mail, a parent knows it is time to sit down at the kitchen table and plan how to stop the spending. Pay-Go is what Congress and President Clinton did to respond to Washington's bad credit card bill.

Pay-Go was smart lawmaking because it imposed a culture of fiscal responsibility—and I would say discipline—on the Congress. Yet, for some reason, early in this decade a new administration let Pay-Go expire. That played a part in how these surpluses all of a sudden turned back into big annual deficits. This is how America incurred years of new debt.

The frustrating reality is that we are not getting enough out of borrowing all this money in the end—fighting an expensive war with tremendous unseen long-term costs to follow, ignoring the staggering costs of our health care system and entitlements, paying huge interest costs on our debt, in large part to foreign countries. These are hardly worthy uses of deficit spending.

In 2003, the Bush administration and Congress passed a new entitlement program called Medicare Part D. It is very popular, but we never paid a dime for it. They also chose two tax cuts for people who needed them least over fiscal discipline. They ignored skyrocketing mandatory spending. They created a brandnew bureaucracy and just saddled all of this heavy new weight on America's national debt.

In short, Washington was unwilling to ask the American people to pay for any of its investments—they put it on our children's shoulders instead.

And the tragedy of this incredible mismanagement is, it didn't work. Our economy plunged into its deepest hole since the Great Depression.

Fortunately, earlier this year, the House rightly passed new statutory Pay-Go. The Senate should pass Pay-Go too. That's why today, Senator MCCASKILL and I introduced Pay-Go. We believe that Pay-Go is one important way to make sure that our fiscal situation doesn't get any worse. Pay-Go is not a magic bullet, but it is part of the answer to our fiscal woes.

Once Pay-Go is in place though, we cannot stop there. Pay-Go will help us stop digging. But we also need to budget for the future, stop running large deficits and fill this fiscal hole completely. I am optimistic that this can be done, and it will take bipartisan commitment and discipline.

One place to start is with the growth of our yearly spending. Like Pay-Go, the yearly spending of Congress has also been done before, and it has worked.

That is why today I am introducing separate legislation, the Deficit Reduction Act of 2009, that would create yearly limits on discretionary spending. By pairing these discretionary spending limits with Pay-Go, we can start to make a substantial change in how Washington does business.

But it is not enough just to limit new spending across the board. Much of the reason that we are running such large deficits, is that we have made long-term spending commitments, called mandatory spending. To truly reverse the totality of our disastrous fiscal course, we must be willing to address rapidly expanding mandatory commitments too.

The best way—you know, it is funny, when you use the word ''mandatory.'' It is the word that should be used to express what this debt burden is we are putting on our kids. It will be mandatory that they pay that back before they make decisions about how to educate their own children; before they make decisions about how to provide individual health care in this country or make other kinds of investments all across the United States, in transportation or in new economies. What will be mandatory as we fall farther and farther behind in this global economy—what will be mandatory for them is to pay the bill left behind by their mothers and fathers.

The best way to get Congress to take a hard look at mandatory spending, is to place a flexible cap on our annual deficits. That's the other main component of what my new legislation would do. The cap in the Deficit Reduction Act is realistic—it would impose limits that are consistent with what economists believe we can sustain. This deficit limit is flexible—providing an exception when we are in a recession.

Here is how the deficit limit would work. Whatever the gross domestic product is in a given year, Congress must limit the deficit to 3 percent of the GDP or less. Economists tell us that this 3 percent number is sustainable over time, and that is a reasonably healthy ceiling. Now of course we should push to do better than running a deficit that is 3 percent of GDP. But this is a good starting point at setting and adhering to a budget. We would all clap if the deficits of today—12 or 13 percent of GDP—were 3 percent, and no one would clap louder than our children.

Under my legislation, if Congress failed to meet these deficit control requirements, the government would have to impose an across the board cut called a sequestration. Certain programs such as Social Security and veterans programs would not be subject to cuts. Yet most of the government's functions would be. The goal, of course, is to avoid this drastic measure by forcing Congress to plan ahead, and forcing Congress to pay attention to the deficit when it makes its spending choices.

Deficit limits make perfect sense during most years. But, as we have learned during this recession, an infusion of public funds can jolt a frozen economy and help turn that economy around. Running temporary deficits can kickstart a stagnant economy. But this only works if during healthy economic times, you also reduce government spending. The deficit limits I am proposing in this legislation would put Congress on a gradual track back to solid fiscal footing.

We should immediately enact budget reform proposals like Pay-Go discretionary spending limits and deficit limits. The CBO has concluded that after 2019, the rate at which we accumulate debt will continue to accelerate due to the aging of the population and increased health care costs. As angry as we all are with the excessive leverage in the private marketplace over the past decade that contributed to the market crashing, it is also obvious that Washington set a very bad example.

Let's put an end to these unsound fiscal practices. Let's not put our kids in the kind of situation we have inherited. Let's not make matters even worse, and the policy decisions regarding the national debt even harder for our kids.

What we need now is leadership and cooperation; not more shifting costs to our kids. The Congressional Budget Office estimates that if we remain on our current course, the total debt owed by the public will stand at over $17 trillion by the end of fiscal year 2019—only 10 years from today.

The point is that linked with our growing debt are the dreams and the plans of millions of American families. There is nothing fun about tightening our belt and cutting popular programs. I don't like it any more than anyone else who is here. Yet there are plenty of encouraging signs that this Congress and this President can stand together and do exactly that. Recently, just a couple of weeks ago, the Senate stood with the President for fiscal discipline and slashed nearly $2 billion from an outdated weapons system. That is a good start that I gladly supported. But so much more is left to do.

Coloradans already know we are in a bad way. People in my State are well aware that the excesses in recent years are catching up to us, and they know that Congress and the President have to make hard fiscal choices, reform health care before it eats up our entire budget, and pay for our reform efforts.

This challenging outlook may be just what it takes to bring both political parties to the negotiating table. Paired with Pay-Go, it is my hope that this new legislation can be a real starting point for meaningful fiscal negotiations. It is time we come up with an intelligent framework of fiscal management, that keeps Congress thinking ahead each time it makes a decision, and each time it puts together an annual budget, and each time it is faced with America's long-term fiscal trajectory.

Washington's fiscal mess was created over many years, and we won't solve the problem overnight. But this bill would give Congress and the President a guidepost to make the decisions necessary to get our budget under control. It would set a strong and binding standard for us to act responsibly.

We must start with what unites us. When I worry about what type of country we will leave my daughters and all of our young people, I know that others who vote differently than I do have the same worries. We owe more to our kids than to leave them a huge national debt and no plan to get out of it.

If we don't start making difficult decisions soon, we will be limiting our children's ability to make our country a better place, before they even get started. We will be limiting their ability to invest in education, life-saving scientific research, or new technologies that form the foundation of economic growth. We will be limiting their ability to defend the Nation during future times of war that we can't even think of today. And we will be limiting their chances of having a quality of life even better than what our parents and grandparents left to us.

If we fail to confront the tough issues so we can control the cost of health care, we will have squandered this narrow window of opportunity. If we fail to step up to the plate and pass a fiscally sound health care reform bill, this Congress will be remembered for years to come as having let down the country. If we fail—not just to stop digging this deep fiscal hole, but to put a process in place for climbing back up to solid fiscal footing—we will have failed to perform as the stewards of our children's dreams.

Let's stand together, with our President and with American families. Let's get health care reform done responsibly, let's take action to reduce the deficit and debt, and let's put this economy back on track.

By Ms. SNOWE:

S. 1615. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to stop the small business credit crunch, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, the state of small business lending in the United States is still dire, as was shown during CIT's recent close brush with bankruptcy. One area of lending which has historically helped small firms has been Small Business Administration backed lending, but while the SBA traditionally guarantees $20 billion in loans annually, before the passage of the stimulus, new lending this year was on track to fall below $10 billion. In fact, in the first quarter of fiscal year 2009, the number of SBA 7(a) loans dropped by 57 percent when compared with the first quarter of fiscal year 2008.

Last year, to help address the frozen credit market and the drop in SBA lending I introduced the 10 Steps for a Main Street Economic Recovery Act. Many of the provisions in 10 Steps were included in the American Recovery and Reinvestment Act and several have already been credited with helping to increase SBA volume. These include fee reductions for 7(a) and 504 loans and allowing for the refinancing of 504 loans. To ensure that SBA lending remains a critical source of capital for small businesses, we must continue to bolster this program and help it to evolve and grow.

In order to maintain this momentum we must take steps to further reform and improve SBA-backed lending. The legislation I am introducing, the Next Step, builds on the 10 Steps for a Main Street Economic Recovery Act and makes the SBA's lending programs more vital and responsive to the needs of today's small business borrower.

The Next Step includes provisions that would allow borrowers to take out larger 7(a) and 504 loans up to $5 million. This bill would help satisfy the capital needs of small businesses, looking to start or expand their operations. The bill would also allow for the refinancing of 7(a) loans. Finally, SBA borrowers must have the ability to shop and compare SBA loan rates online. My legislation would establish an online platform through the SBA that would allow borrowers to compare SBA loan rates and make an informed choice, giving borrowers a chance to save time and money.

These targeted reforms included in the Next Step for Main Street Credit Availability Act of 2009 will help bring SBA lending into the future, make the SBA's lending programs competitive with traditional small businesses' borrowing, and help to increase SBA lending volume.

I urge my colleagues to support this critical legislation to help improve small business lending.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Next Step for Main Street Credit Availability Act of 2009''.

SEC. 2. MAXIMUM AMOUNTS FOR 7(a) LOANS.

Section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)) is amended by striking ''$1,500,000 (or if the gross loan amount would exceed $2,000,000'' and inserting ''$4,000,000 (or if the gross loan amount would exceed $5,000,000''.

SEC. 3. REFINANCING EXISTING 7(a) LOANS.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

''(34) REFINANCING EXISTING LOANS.—A borrower that has received a loan under this subsection may refinance the balance of the loan by applying for a loan from the lender that made the original loan or with another lender.''.

(b) TECHNICAL AMENDMENT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by striking ''(32) INCREASED'' and inserting ''(33) INCREASED''.

SEC. 4. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.

Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (i), by striking ''$1,500,000'' and inserting ''$4,000,000'';

(2) in clause (ii), by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) in clause (iii), by striking ''$4,000,000'' and inserting ''$5,500,000''.

SEC. 5. MAXIMUM LOAN LIMITS UNDER MICROLOAN PROGRAM.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking ''$35,000'' and inserting ''$50,000'';

(2) in paragraph (3)(E), by striking ''$35,000'' each place it appears and inserting ''$50,000''; and

(3) in paragraph (11)(B), by striking ''$35,000'' and inserting ''$50,000''.

SEC. 6. ONLINE LENDING PLATFORM.

It is the sense of the Congress that the Administrator of the Small Business Administration should establish a website that—

(1) lists each lender that makes loans guaranteed by the Small Business Administration and provides information about the loan rate of each such lender; and

(2) allows prospective borrowers—

(A) to compare rates on loans guaranteed by the Small Business Administration; and

(B) to apply online for loans guaranteed by the Small Business Administration.

By Ms. CANTWELL:

S. 1616. A bill to authorize assistance to small- and medium-sized businesses to promote exports to the People's Republic of China, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. CANTWELL. Mr. President, I rise today to introduce the U.S.-China Market Engagement and Export Promotion Act of 2009. For many small- and medium-sized businesses across this country, some of which are in my home State of Washington, getting access to the Chinese market proves difficult at best. However, to establish a foothold in the ever expanding Chinese market can prove pivotal in achieving financial success. China is a tremendous market for U.S. goods and services. According to the U.S.-China Business Council, despite the global economic downturn, 85 percent of congressional districts increased their exports to China in 2008. In addition, exports to China in almost every congressional district grew more than exports to anywhere else from 2000 to 2008.

In 2008, U.S. total exports to China equaled $71.5 billion. During the same time, however, our imports from China equaled $337.8 billion. That means our trading balance with China in 2008 was a $266.3 billion deficit. This bill would help States establish export promotion offices in China and create a new China Market Advocate Program at U.S. Export Assistance Centers around the Nation. The bill also provides assistance to small businesses for China trade missions and authorizes grants for Chinese business education programs.

I support this bill because of the enormous role that small businesses play in our economy. Small- and medium-sized businesses are a great potential engine of growth. Between 2004 and 2005, small businesses created 78.9 percent of the Nation's net new jobs, and with expanded export opportunities that number will be able to increase in the near future. Considering the huge impact that small- and medium-sized businesses have on our economy, I urge all my colleagues to support this bill and give the business owners the assistance they need to succeed in the Chinese export market.

The U.S.-China Market Engagement and Promotion Act will build the infrastructure necessary to connect American small- and medium-sized businesses with export opportunities in China.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''United States-China Market Engagement and Export Promotion Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—PROGRAMS OF THE DEPARTMENT OF COMMERCE

Sec. 101. Grants to States to establish and operate offices to promote exports to China.

Sec. 102. Program to establish China market advocate positions in United States Export Assistance Centers.

Sec. 103. Assistance to small- and medium-sized businesses for trade missions to China.

Sec. 104. Plan to consolidate fees for Gold Key matching services in China.

TITLE II—PROGRAMS OF THE SMALL BUSINESS ADMINISTRATION

Sec. 201. Trade outreach at the Office of International Trade of the Small Business Administration.

Sec. 202. Grants for Chinese business education programs.

TITLE I—PROGRAMS OF THE DEPARTMENT OF COMMERCE

SEC. 101. GRANTS TO STATES TO ESTABLISH AND OPERATE OFFICES TO PROMOTE EXPORTS TO CHINA.

(a) GRANTS.—The Secretary of Commerce, acting through the Assistant Secretary for Trade Promotion and Director of the United States and Foreign Commercial Service, shall provide grants to States to establish and operate State offices in the People's Republic of China to provide assistance to United States exporters for the promotion of exports to China, with a particular focus on establishment of offices in locations in addition to Beijing and Shanghai.

(b) AMOUNT.—The amount of a grant under subsection (a) shall not exceed 33 percent of the total costs to establish and operate a State office described in such subsection.

(c) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Commerce shall promulgate such regulations as may be necessary to carry out this section.

(d) DEFINITIONS.—In this section:

(1) STATE.—The term ''State'' has the meaning given the term in section 2301(j)(5) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(j)(5)).

(2) UNITED STATES EXPORTER.—The term ''United States exporter'' has the meaning given the term in section 2301(j)(3) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(j)(3)).

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $10,000,000 for each of the fiscal years 2010 through 2014 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) shall remain available until expended.

SEC. 102. PROGRAM TO ESTABLISH CHINA MARKET ADVOCATE POSITIONS IN UNITED STATES EXPORT ASSISTANCE CENTERS.

(a) PROGRAM AUTHORIZED.—The Secretary of Commerce, in the Secretary's role as chairperson of the Trade Promotion Coordinating Committee, shall establish a program to provide comprehensive assistance to small- and medium-sized businesses in the United States for purposes of facilitating exports to China.

(b) CHINA MARKET ADVOCATES.—

(1) POSITIONS AUTHORIZED.—

(A) IN GENERAL.—The Secretary of Commerce shall create not fewer than 50 China market advocate positions in United States Export Assistance Centers.

(B) APPOINTMENT AND TRAINING.—The China market advocates authorized under subparagraph (A) shall be appointed by the Secretary from among individuals with expertise in matters relating to trade with China and shall receive the training authorized under paragraph (2).

(C) RATE OF PAY.—China market advocates shall be paid at a rate equal to the rate of basic pay for grades GS–10 through GS–13 of the General Schedule under section 5332 of title 5, United States Code.

(D) GEOGRAPHIC DISTRIBUTION.—To the maximum extent practicable, China market advocates shall be assigned to United States Export Assistance Centers in a manner that achieves an equitable geographic distribution of China market advocates among United States Export Assistance Centers.

(2) TRAINING AUTHORIZED.—The Secretary shall provide training to China market advocates in the business culture of China, the market of China, and the evolving political, cultural, and economic environment in China.

(c) SERVICES PROVIDED BY ADVOCATES.—China market advocates authorized under subsection (b) shall provide comprehensive assistance to small- and medium-sized businesses in the United States for purposes of facilitating exports of United States goods to China. Such assistance may include—

(1) assistance to find and utilize Federal and private resources to facilitate entering into the market of China;

(2) continuous direct and personal contact with businesses that have entered the market of China;

(3) assistance to resolve disputes with the Government of the United States or China relating to intellectual property rights violations, export restrictions, and additional trade barriers; and

(4) to the extent practicable, locating and recruiting businesses to enter the market of China.

(d) ADVERTISING OF PROGRAM.—The Secretary of Commerce shall make available to the public through advertising and other appropriate methods information about services offered by China market advocates under the program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce to carry out this section $15,000,000 for each of the fiscal years 2010 through 2014, of which—

(1) $5,000,000 are authorized to be appropriated to carry out subsection (b)(2); and

(2) $2,000,000 are authorized to be appropriated to carry out subsection (d).

SEC. 103. ASSISTANCE TO SMALL- AND MEDIUM-SIZED BUSINESSES FOR TRADE MISSIONS TO CHINA.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Commerce, in the Secretary's role as chairperson of the Trade Promotion Coordinating Committee, shall provide assistance through United States Export Assistance Centers to eligible small- and medium-sized businesses in the United States for business-related expenses for trade missions to China.

(b) SELECTION PROCESS.—The Secretary of Commerce shall—

(1) develop a transparent and competitive scoring system for selection of small- and medium-sized businesses to receive assistance authorized under subsection (a) that focuses on the feasibility of exporting goods and services to China; and

(2) develop specific criteria for a definition of ''business-related expenses'', as the term is used in subsection (a), that is compatible with best business practices.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $2,000,000 for each of the fiscal years 2010 through 2014 to carry out this section.

SEC. 104. PLAN TO CONSOLIDATE FEES FOR GOLD KEY MATCHING SERVICES IN CHINA.

(a) PLAN REQUIRED.—As soon as is practicable after the date of the enactment of this Act, the Secretary of Commerce, acting through the Assistant Secretary for Trade Promotion and Director of the United States and Foreign Commercial Service, shall submit to Congress a plan to consolidate fees charged by the Department of Commerce for Gold Key matching services provided to small- and medium-sized businesses that export goods or services produced in the United States to more than one market in China.

(b) GOLD KEY MATCHING SERVICES DEFINED.—In this section, the term ''Gold Key matching services'' means the Gold Key Service program of the Department of Commerce and includes—

(1) the arrangement of business meetings with pre-screened contacts, representatives, distributors, professional associations, government contacts, or licensing or joint venture partners in a foreign country;

(2) customized market and industry briefings with trade specialists of the Department of Commerce;

(3) timely and relevant market research;

(4) appointments with prospective trade partners in key industry sectors;

(5) post-meeting debriefing with trade specialists of the Department of Commerce and assistance in developing appropriate follow-up strategies; and

(6) assistance with travel, accommodations, interpreter service, and clerical support.

TITLE II—PROGRAMS OF THE SMALL BUSINESS ADMINISTRATION

SEC. 201. TRADE OUTREACH AT THE OFFICE OF INTERNATIONAL TRADE OF THE SMALL BUSINESS ADMINISTRATION.

Section 22 of the Small Business Act (15 U.S.C. 649) is amended by adding at the end the following new subsections:

''(h) PROMOTION OF EXPORTS TO CHINA.—The Office shall provide strategic guidance to small business concerns with respect to exporting goods and services to China.

''(i) DIRECTOR OF CHINA PROGRAM GRANTS.—

''(1) IN GENERAL.—There shall be in the Office a Director of China Program Grants (in this subsection referred to as the 'Director').

''(2) APPOINTMENT.—The Director shall be appointed by the Administrator and shall be an individual with demonstrated successful experience in matters relating to international trade and administering government contracts.

''(3) RATE OF PAY.—The Director shall be paid at a rate equal to or greater than the rate of basic pay for grade GS–14 of the General Schedule under section 5332 of title 5, United States Code.

''(4) DUTIES.—The Director shall be responsible for administering the grant program authorized under section 202 of the United States-China Market Engagement and Export Promotion Act (relating to Chinese business education programs) and any other similar or related program of the Office.''.

SEC. 202. GRANTS FOR CHINESE BUSINESS EDUCATION PROGRAMS.

(a) GRANTS AUTHORIZED.—The Administrator of the Small Business Administration, acting through the Director of China Program Grants in the Office of International Trade, shall make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing, and operating education programs described in subsection (b) to—

(1) develop and enhance student skills, awareness, and expertise relating to business in China; and

(2) prepare students to promote the competitiveness of and opportunities for United States small business concerns in China.

(b) EDUCATION PROGRAMS DESCRIBED.—Education programs described in this subsection are academic programs of study relating to business in China, including undergraduate and graduate level degrees, courses, or seminars on—

(1) the economy of China;

(2) trade and commerce in China;

(3) new and expanding export opportunities for United States small business concerns in China; and

(4) the economic, commerce, and trade relations between the United States and China.

(c) APPLICATION.—A small business concern desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Director of China Program Grants may require.

(d) DURATION OF GRANTS.—A grant under this section shall be for an initial period not to exceed 2 years. The Director of China Program Grants may renew such grant for additional 2-year periods.

(e) FEDERAL SHARE.—

(1) FEDERAL SHARE.—The Federal share of the cost of an education program described in subsection (b) shall not exceed 50 percent of the cost of such program.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of an education program described in subsection (b) may be provided either in cash or in-kind.

(f) DEFINITION.—In this section, the term ''institution of higher education'' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

By Mr. DODD (for himself, Mr. MENENDEZ, Mr. MERKLEY, Mr. BENNET, Mr. AKAKA, and Mr. SCHUMER):

S. 1619. A bill to establish the Office of Sustainable Housing and Communities, to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant program, to establish a sustainability challenge grant program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise to introduce the Livable Communities Act.

Our communities are growing and changing. And the way we plan for their futures needs to evolve, as well. At stake is whether or not we will be able to enjoy the places where we live and work without excessive traffic, skyrocketing fuel costs, and sprawling development patterns that eat up our open space.

As our communities grow, people are living farther from jobs, commuting longer distances on more crowded roadways, paying more at the pump at a time when family budgets are stretched thin and putting more greenhouse gases into the air at a time when climate change has emerged as an urgent threat.

We are losing our rural land and open spaces. Transportation costs are making housing less affordable. Even though our communities are growing in size, we are losing the community spirit that makes American towns and cities so great.

It is clear that current trends simply cannot continue.

Sustainable development will cut down on the traffic that has long plagued my home State of Connecticut and connect people with good-paying jobs. Done right, it will protect the environment and help us meet energy goals; protect rural areas and green spaces; revitalize our Main Streets and urban centers; create and preserve affordable housing; and make our communities better places to live, work, and raise families.

But does that mean sustainable development is a transportation issue? An energy issue? A housing issue? An environmental issue?

The answer, of course, is ''all of the above,'' and unfortunately, that tends to short some circuits here in Washington. Our policy has long been stovepiped within the various agencies responsible for each of the issues affected by planning and development.

In February, I wrote a letter to President Obama urging him to establish a White House Office of Sustainable Development to coordinate housing, transportation, energy, and environmental policies.

I felt confident I would find a partner in the White House. The President has been a strong leader on these issues, and he has shown a willingness to shake up a Federal Government that hasn't always succeeded when it comes to thinking outside the box and addressing related issues in a comprehensive, effective way.

Sure enough, last month I brought together Secretary of Transportation Ray LaHood, Secretary of Housing and Urban Development Shaun Donovan, and Environmental Protection Agency Administrator Lisa Jackson at a Banking Committee hearing—three public servants who don't often find themselves in the same hearing room at the same time.

They brought with them a pledge that the administration would work across agency lines to take a holistic look at development policy—and a firm commitment to livability principles that would serve as the foundation for that policy going forward.

The administration's principles demonstrate a true understanding of the best way forward.

Sustainable development, as grounded in these principles, provides more transportation choices for families, expands access to affordable housing, enhances economic competitiveness by

connecting families with jobs and services, targets funding towards existing communities to spur revitalization and protect our open spaces, values the unique character of both our cities and our small towns, and improves collaboration between different government agencies to better leverage our investments.

As Secretary LaHood said at the hearing, we are now all working off the same playbook. But now it is time to snap the ball and move down the field.

Last month the White House announced the selection of Shelley Poticha to head up these efforts. If the Livable Communities Act becomes law, as I hope it will, Ms. Poticha will head a new HUD Office of Sustainable Housing and Communities.

This new office will serve as a clearinghouse for best practices, so that successful initiatives can be easily replicated. And it will give HUD Secretary Donovan, Deputy Secretary Ron Simms, and Ms. Poticha the tools and authority they need to really dig in and become a partner to our communities in creating a sustainable future.

One successful play from our playbook could be modeled after a project in my home State of Connecticut. It links housing and transportation policy, encourages smart land use, generates economic growth, and will reduce our carbon footprint around what's known as the Tri-City Corridor in Connecticut. This proposal would provide commuter and 110-mile-per-hour intercity rail service between New Haven, Hartford, and Springfield, MA, and feature 12 stops, creating ''transit villages'' and revitalizing local economies.

Already, we are seeing how this proposed service is serving as a catalyst: attracting new business, commuters, and residents, and transforming struggling local economies.

Along the corridor is Meriden, a small city of nearly 60,000 residents located roughly halfway between New Haven and Hartford. In anticipation of a commuter stop on the rail line, the city would like to transform 15 acres of brownfields into new commercial and residential developments, including a public green that doubles as a flood buffer.

Immediately north of that site is the Mills Memorial public housing complex, providing 140 units of affordable housing to low income residents.

By linking transit, housing, and commercial planning, the city of Meriden will be able to transform its downtown into a bustling economic center ready to support a wide range of residents.

The vision of Meriden and so many communities throughout the country needs the support and planning tools to take these initiatives from idea to action.

So, today, I offer for your consideration legislation that encourages communities across the country to begin planning for more prosperous and livable futures.

In addition to creating the new HUD Office of Sustainable Housing and Communities I mentioned earlier, this bill creates a competitive grant program that States and localities can use to better integrate transportation, housing, land use, and economic development when making long-term planning decisions.

In addition, it provides funding for communities to implement these comprehensive regional plans through a challenge grant program. This program will help communities invest in public transportation, affordable housing, complete streets, transit-oriented development, and redeveloping brownfields.

Finally, this bill creates an Interagency Council on Sustainable Communities to break down the ''stovepiping'' that exists within the Federal Government and coordinate Federal policies to encourage sustainable development.

In my home State of Connecticut, integrated planning and sustainable development is critical to growing stronger communities.

We have a state-level program called HOMEConnecticut that provides grants to plan Incentive Housing Zones. In these zones, mixed-income housing is built near jobs and transit centers, in downtowns and in redeveloped brownfields. More than 50 cities and towns have either applied for grants or already received them. The investment will pay off in affordable homes, good jobs, and more livable communities.

Like bragging on Connecticut, but I would love to see this success replicated in communities around the Nation. The Obama administration has indicated its commitment to encouraging sustainable development and helping local authorities build a better future. It is time for us to do the same.

I urge my colleagues to join me in support of this important legislation.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. KERRY, and Mr. LUGAR):

S. 1620. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives and fees for increasing motor vehicle fuel economy, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, as the success of the Cash for Clunkers Program that we are working to extend today makes clear, there is substantial interest among consumers in upgrading the fuel efficiency of their vehicles. In fact, maybe the most surprising thing about the program thus far has been the higher-than-expected appetite by consumers for the most fuel-efficient vehicles.

It is an encouraging sign, but it remains surprising because it is extraordinarily difficult for a consumer to take into account the real benefits, or costs, of fuel economy. The value of fuel efficiency depends on the unknowable fact of what the price of gasoline is likely to be in future years as well as requiring a calculation to make and apples-to-apples comparison of the costs of ownership at different efficiency levels. This explains why study after study demonstrates that consumers don't fully account for the fuel costs of ownership when they make buying decisions. Decisions that many people regretted making only a few years earlier as gas prices climbed near $4 per gallon last fall.

This isn't only a problem for consumers. Improving the fuel economy of a vehicle requires significant engineering and new technologies, often adding hundreds or thousands to the manufacturer price of a vehicle; costs consumers have proved unwilling to bear. Faced with this reality, and the uncertainty of recovering their costs from consumers who are unsure of the value of fuel efficiency, car makers have generally thought it is in their best business interests to meet the fuel economy requirements of CAFE but go no further. Even when manufacturers want to go further than the CAFE requirements and produce more efficient vehicles, they are faced with giving up a cost advantage to their competitors by putting on expensive new technologies. For this reason, and to attempt to take into account the very real costs in oil and climate insecurity by our undervaluation of efficiency, Congress has put in a series of incentives for specific technologies such as hybrids, electric-drive, and hydrogen fuel cell vehicles. We have also recently made significant investments in battery manufacturing and vehicle electrification to try and close the significant gap with our global competitors in these technologies.

Although I support those investments to increase our competitiveness in the clean energy technology manufacturing race, unless the domestic marketplace will support them over the long term, they simply won't be enough. I believe the best path to both support our climate and energy goals and enhance our economic competitiveness is to create a set of clear, technology-neutral incentives that can achieve our goals and then let the market and consumers sort out the best technologies.

The Efficient Vehicle Leadership Act of 2009 that I am introducing today with Senators SNOWE, KERRY, and LUGAR provides a long-term pathway forward that will allow consumers to afford the most fuel efficient vehicles and a clear signal to the manufacturers that they can succeed in the marketplace by incorporating the most advanced fuel efficiency technologies into their new offerings. The bill would provide for fuel performance rebates that would decrease the cost of efficient cars and pay for it by assessing a fuel performance fee to manufacturers for inefficient vehicles to pay for the program.

The rebates and fees would be calculated based on how much more or

less fuel-efficient a vehicle is relative to the CAFE standard. The CAFE standard is based on the size, or ''footprint''—the interior dimensions of the four wheels of the motor vehicle, so each vehicle would compete with other vehicles of a similar size. The CAFE standard itself becomes more stringent over time, based on the ''maximum feasible'' fuel efficiency as determined by NHTSA, so the incentives are recast yearly against a higher target. Calculating the rebates and fees based on the CAFE standard allows them to net out, making the overall system revenue neutral and providing a continuing incentive each subsequent year. Thus, the purchasers of fuel efficiency laggards for each size pay to make the most fuel-efficient equivalent vehicles more affordable. The rebate amount must appear on the fuel efficiency sticker and consumers can choose if they want to receive their rebate directly in their tax returns or they can transfer the credit to dealer, as long as the dealer certifies they have given the rebate to the consumer at the point of purchase.

In sum, this bill provides a long-term structure for the automotive sector that provides certainty to manufacturers that the technologies that they must employ to meet the new fuel efficiency requirements will be valued by consumers and, beyond that, rewards and incentivizes innovation in vehicle efficiency to go beyond the CAFE requirements. The technological acumen of the auto industry will be harnessed, with no net impact on safety or comfort, and without distorting the marketplace. Consumers would benefit for years to come from a smaller hit on their wallet at the pump. The United States would benefit overall as we began to curb our appetite for oil.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Efficient Vehicle Leadership Act of 2009''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TAX CREDIT FOR FUEL-EFFICIENT MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by inserting after section 30D the following new section:

''SEC. 30E. FUEL PERFORMANCE REBATE.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount determined under paragraph (2) with respect to any new qualified fuel-efficient motor vehicle placed in service by the taxpayer during the taxable year.

''(2) CREDIT AMOUNT.—With respect to each new qualified fuel-efficient motor vehicle, the amount determined under this paragraph shall be equal to the product of—

''(A) the absolute value of the difference between the fuel-economy rating and the reference fuel-economy rating for such motor vehicle for the model year, and

''(B) 100, and

''(C) the applicable amount.

''(3) APPLICABLE AMOUNT.—For purposes of paragraph (2)(C), the applicable amount is equal to—

''(A) in the case of model year 2011—

''(i) $1,000, or

''(ii) $2,000, if the fuel-economy rating for such motor vehicle is at least 50 percent more efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (2)(A), and

''(B) in the case of any succeeding model year—

''(i) $1,500, or

''(ii) $2,500, if the fuel-economy rating for such motor vehicle is at least 50 percent more efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (2)(A), or

''(iii) $3,500, if the fuel-economy rating for such motor vehicle is at least 75 percent more efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (2)(A).

''(b) NEW QUALIFIED FUEL-EFFICIENT MOTOR VEHICLE.—For purposes of this section, the term 'new qualified fuel-efficient motor vehicle' means a passenger automobile or light truck—

''(1) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

''(2) which achieves a fuel-economy rating that is more efficient than the reference fuel-economy rating for such motor vehicle for the model year,

''(3) for which standards are prescribed pursuant to section 32902 of title 49, United States Code,

''(4) the original use of which commences with the taxpayer,

''(5) which is acquired for use or lease by the taxpayer and not for resale,

''(6) the purchase price of which, less the amount allowable under subsection (a) with respect to such vehicle, does not exceed $50,000, and

''(7) which is made by a manufacturer beginning with model year 2011.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) REFUNDABLE PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart C for such taxable year (and not allowed under subsection (a)).

''(B) REFUNDABLE CREDIT MAY BE TRANSFERRED.—

''(i) IN GENERAL.—A taxpayer may, in connection with the purchase of a new qualified fuel-efficient motor vehicle, transfer any refundable credit described in subparagraph (A) to any person who is in the trade or business of selling new qualified fuel-efficient motor vehicles and who sold such vehicle to the taxpayer, but only if such person clearly discloses to such taxpayer, through the use of a window sticker attached to the new qualified fuel-efficient vehicle—

''(I) the amount of the refundable credit described in subparagraph (A) with respect to such vehicle, and

''(II) a notification that the taxpayer will not be eligible for any credit under section 30, 30B, or 30D with respect to such vehicle unless the taxpayer elects not to have this section apply with respect to such vehicle.

''(ii) CERTIFICATION.—A transferee of a refundable credit described in subparagraph (A) may not claim such credit unless such claim is accompanied by a certification to the Secretary that the transferee reduced the price the taxpayer paid for the new qualified fuel-efficient motor vehicle by the entire amount of such refundable credit.

''(iii) CONSENT REQUIRED FOR REVOCATION.—Any transfer under clause (i) may be revoked only with the consent of the Secretary.

''(iv) REGULATIONS.—The Secretary may prescribe such regulations as necessary to ensure that any refundable credit described in clause (i) is claimed once and not retransferred by a transferee.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) FUEL-ECONOMY RATING.—The term 'fuel-economy rating' means, with respect to any motor vehicle, the combined fuel-economy rating for such motor vehicle, expressed in gallons per mile, determined in accordance with section 32904 of title 49, United States Code.

''(2) MODEL YEAR.—The term 'model year' has the meaning given such term under section 32901(a) of such title 49.

''(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

''(4) REFERENCE FUEL-ECONOMY RATING.—The term 'reference fuel-economy rating' means, with respect to any motor vehicle, the fuel economy standard for such motor vehicle, expressed in gallons per mile, calculated by applying the relevant vehicle attributes to the mathematical function published pursuant to section 32902(b)(3)(A) of title 49, United States Code.

''(5) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(e) SPECIAL RULES.—

''(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (c)).

''(2) NO DOUBLE BENEFIT.—No other credit shall be allowable under this chapter for a new qualified fuel-efficient motor vehicle with respect to which a credit is allowed under this section.

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable

under subsection (a) with respect to such vehicle (determined without regard to subsection (c)). For purposes of subsection (c), property to which this paragraph applies shall be treated as of a character subject to an allowance for depreciation.

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(6) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—A motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provisions under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(8) INFLATION ADJUSTMENT.—In the case of any model year beginning in a calendar year after 2010, each dollar amount in subsection (a)(3)(B) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the model year begins, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100.

''(f) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.''.

(b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) BUSINESS CREDIT.—Section 38(c)(4)(B) is amended by redesignating clauses (i) through (viii) as clauses (ii) through (ix), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

''(i) the credit determined under section 30E,''.

(2) PERSONAL CREDIT.—

(A) Section 24(b)(3)(B) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30E,'' after ''30D,''.

(C) Section 25B(g)(2) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(D) Section 26(a)(1) is amended by striking '' and 30D'' and inserting ''30D, and 30E''.

(E) Section 904(i) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(c) DISPLAY OF CREDIT.—Section 32908(b)(1) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), nad

(2) by inserting after subparagraph (D) the following new subparagraph:

''(E) the amount of the fuel-efficient motor vehicle credit allowable with respect to the sale of the automobile under section 30E of the Internal Revenue Code of 1986 (26 U.S.C. 30E).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 38(a) is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following new paragraph:

''(36) the portion of the fuel performance rebate to which section 30E(c)(1) applies.''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30E(e)(1).''.

(3) Section 6501(m) is amended by inserting ''30E(e)(6),'' after ''30D(e)(4),''.

(4) The table of section for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30D the following new item:

''Sec. 30E. Fuel performance rebate.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 3. FUEL PERFORMANCE FEE.

(a) IN GENERAL.—Section 4064 is amended to read as follows:

''SEC. 4064. FUEL PERFORMANCE FEE.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed on the sale by the manufacturer of each fuel guzzler motor vehicle a tax equal to the product of—

''(A) the absolute value of the difference between the fuel-economy rating and the reference fuel-economy rating for such motor vehicle for the model year, and

''(B) 100, and

''(C) the applicable amount.

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1)(C), the applicable amount is equal to—

''(A) $1,500, or

''(B) $2,500, if the fuel-economy rating for such motor vehicle is more than 50 percent less efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (1)(A), or

''(C) $3,500, if the fuel-economy rating for such motor vehicle is more than 75 percent less efficient than the reference fuel-economy rating for such motor vehicle as determined under paragraph (1)(A).

''(b) FUEL GUZZLER MOTOR VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'fuel guzzler motor vehicle' means a passenger automobile or light truck—

''(A) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

''(B) which achieves a fuel-economy rating that is less efficient than the reference fuel-economy rating for such motor vehicle for the model year,

''(C) which has a gross vehicle weight rating of not more than 8,500 pounds, and

''(D) which is made by a manufacturer beginning with model year 2013.

''(2) EXCEPTION FOR EMERGENCY VEHICLES.—The term 'fuel guzzler motor vehicle' does not include any vehicle sold for use and used—

''(A) as an ambulance or combination ambulance-hearse,

''(B) by the United States or by a State or local government for police or other law enforcement purposes, or

''(C) for other emergency uses prescribed by the Secretary by regulations.

''(c) OTHER DEFINITIONS.—For purposes of this section—

''(1) FUEL-ECONOMY RATING.—The term 'fuel-economy rating' means, with respect to any motor vehicle, the combined fuel-economy rating for such motor vehicle, expressed in gallons per mile, determined in accordance with section 32904 of title 49, United States Code.

''(2) MODEL YEAR.—The term 'model year' has the meaning given such term under section 32901(a) of such title 49.

''(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

''(4) REFERENCE FUEL-ECONOMY RATING.—The term 'reference fuel-economy rating' means, with respect to any motor vehicle, the fuel economy standard for such motor vehicle, expressed in gallons per mile, calculated by applying the relevant vehicle attributes to the mathematical function published pursuant to section 32902(b)(3)(A) of title 49, United States Code.

''(5) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(d) INFLATION ADJUSTMENT.—In the case of any model year beginning in a calendar year after 2010, each dollar amount in subsection (a)(2) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the model year begins, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for part I of subchapter A of chapter 32 is amended by striking ''**GAS**'' and inserting ''**FUEL**''.

(2) The table of parts for subchapter A of chapter 32 is amended by striking ''Gas'' in the item relating to part I and inserting ''Fuel''.

(3) The table of sections for part I of subchapter A of chapter 32 is amended by striking ''Gas'' in the item relating to section 4064 and inserting ''Fuel''.

(4) The heading for subsection (d) of section 1016 is amended by striking ''GAS GUZZLER TAX'' and inserting ''FUEL PERFORMANCE FEE''.

(5) The heading for subsection (e) of section 4217 is amended by striking ''GAS GUZZLER TAX'' and inserting ''FUEL PERFORMANCE FEE''.

(6) The heading for subparagraph (B) of section 4217(e)(3) is amended by striking ''GAS GUZZLER TAX'' and inserting ''FUEL PERFORMANCE FEE''.

(7) Section 4217(e) is amended by striking ''gas guzzler tax'' each place it appears and inserting ''fuel performance fee''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of vehicles beginning with model year 2013.

By Mr. SANDERS (for himself and Mr. MERKLEY):

S. 1621. A bill to improve thermal energy efficiency and use, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. SANDERS. Mr. President, today I am pleased to introduce the Thermal Energy Efficiency Act, which I believe can play an important role in moving our Nation toward green job creation and greenhouse gas emissions reductions. I thank Senator MERKLEY for being an original cosponsor on this bill. I also thank the International District Energy Association, the Biomass Energy Resource Center, the American Council for an Energy-Efficient Economy, Sustainable Northwest, and the U.S. Clean Heat and Power Association for working with us to ensure that as we consider comprehensive global warming legislation, we do not forget about energy efficiency and thermal energy.

This legislation addresses two ways of producing and distributing thermal energy, which is a technical term for heat. The legislation focuses on combined heat and power and district energy. Combined heat and power is simple to understand and has great capacity to transform our use of energy and increase large-scale efficiency. It is a fully developed technology, and there is nothing experimental about it. Combined heat and power means that one source of energy can produce electricity and then capture and use the resulting heat for a second purpose: heating homes, schools, offices, and factories. Combined heat and power gets both heat and power from one energy source and can work with fossil fuels or biomass or even waste. Combined heat and power can offer huge efficiency gains and lower carbon footprints for our powerplants.

District energy can be used together with combined heat and power, or separate from it, in systems designed purely for heating. What district energy does is use heat not just for one building or location but for multiple locations. Just as homes or businesses share electric lines or telephone lines, they can also share a heat source. And sharing a heat source can often be a major source of efficiency.

For too long, Federal energy policy has not focused enough on thermal energy or energy efficiency. We know we can do more. According to the Department of Energy, combined heat and power represents roughly 9 percent of our existing electric power capacity today, but if we moved to 20 percent by 2030, we could avoid 60 percent of the projected growth in carbon dioxide emissions in this country, equivalent to taking more than half of the current passenger vehicles off the road in the United States. Additionally, we could create 1 million new jobs and generate $234 billion in new investments.

We are talking about real technology that is deployable today. In Copenhagen, district energy provides clean heating to 97 percent of the city. In our own country, in St. Paul, MN, district energy and combined heat and power provide 65 megawatts of thermal energy and 25 megawatts of electricity from renewable urban wood waste. Jamestown, NY, started their district heating project in 1981, and today the system provides 16 megawatts of thermal energy heating. Jamestown's public school district uses district energy and has saved more than 16 percent of their energy use over a 30-month period and saved more than $500,000 dollars for taxpayers in the process.

We have opportunities to expand this technology all around our Nation. For example, in my home State of Vermont, several of our cities and towns are looking at district energy. In Burlington, VT, we have 50 megawatt powerplant that uses wood chips and wood waste for power. Yet approximately 60 percent of the energy produced by this plant is lost as wasted heat. This is typical of many conventional power plants. If Burlington implemented a district energy system it could use the wasted thermal energy to heat and cool many buildings downtown. The hurdle for Burlington, and many cities and towns, is the upfront capital investment required to build a district energy system.

That is why today I am introducing the Thermal Energy Efficiency Act. We need a stable, long-term funding source for district energy and combined heat and power. This bill would use 2 percent of the revenues derived from auctioning emissions permits under global warming legislation to support hospitals, cities and towns, schools and universities, businesses and industries, and even Federal facilities and military bases as they implement efficient thermal energy systems.

This bill would recognize the important role that efficiency and thermal energy can play in helping our Nation meet our energy security, emissions reduction, and economic goals. As a member of both the Energy and Natural Resources Committee and the Environment and Public Works Committee, I look forward to working with my colleagues to ensure that combined heat and power and district energy are included in comprehensive energy and global warming legislation.

By Mr. FEINGOLD (for himself, Mr. DODD, and Mr. MENENDEZ):

S. 1623. A bill to prohibit the Secretary of the Interior from issuing new Federal oil and gas leases to holders of existing leases who do not diligently develop the land subject to the existing leases or relinquish the leases, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. FEINGOLD. Mr. President, today I am reintroducing legislation that seeks to answer a question more and more Americans are asking in light of our economic woes and our struggle toward energy independence: Why aren't the oil companies developing 65 million acres, or nearly 75 percent, of land that they are leasing from the U.S. Government? Those same companies and some of my colleagues continue to argue that we need to open more Federal lands to drilling and recently have been insisting on opening up part of the Gulf of Mexico off Florida's coast that Congress agreed to keep closed during debate in 2005 for military and security purposes. I would first like to know why the oil companies are not producing on most of the Federal lands they already have under lease.

Last year, at a Senate Judiciary Committee hearing, I had the chance to ask top oil executives just that question. They couldn't come up with a good explanation. In fact, one of the executives told me that they have the manpower and infrastructure to put all their existing leases of Federal lands into oil production.

I find this troubling. No one is talking about pulling oil out of a hat. But with nearly 75 percent of currently leased Federal lands and waters not producing oil and gas, Congress must insist on some accountability. This is why today I am introducing—along with Senators DODD and MENENDEZ—the Responsible Federal Oil and Gas Lease Act, also known as ''Use It or Lose It'' legislation. This bill says that if oil and gas companies want to lease additional Federal lands, they must either be producing or diligently developing their existing Federal leases, or they have to first give up those leases. Under my bill, the Department of the Interior is required to establish diligent development benchmarks, which will encourage leaseholders to demonstrate they are taking steps that may lead to oil and gas production. This is a responsible way to increase production and keep the private sector accountable for production of existing Federal resources.

Last fall, the Government Accountability Office issued a report, ''Oil and Gas Leasing: Interior Could Do More to Encourage Diligent Development,'' that looked at whether enough is being done to ensure oil companies are taking steps to develop Federal oil and gas leases. The report found that the Department of the Interior—whose Minerals Management Service manages offshore leases and Bureau of Land Management manages onshore and National Petroleum Reserve leases—lags behind State and private landowner efforts to encourage development of land leased for oil and gas development. The GAO recommends that the Secretary of the Interior ''develop a strategy to evaluate options to encourage faster development of its oil and gas leases.''

Though both MMS and BLM require ''reasonable diligence'' in developing and producing oil and gas on Federal leases, the GAO found that the Interior Department has not clearly defined what activities or timeframes constitute reasonable diligence—something my bill requires the agency to do. Currently, the GAO concludes that leaseholders, in general, are not required to take actions to develop a

lease during the primary term. The only specific diligent development requirement that Interior officials identified to the GAO applies only to lessees of 8-year leases in the Gulf of Mexico and requires drilling to occur before the end of the fifth year or else the lease terminates. However, these leases represent less than 1 percent of the total lease universe.

In addition to the GAO evaluation, the Department of the Interior's Office of the Inspector General issued a report in February 2009 on its investigation of whether oil and gas companies were adequately developing Federal leases and whether the Department of the Interior was ensuring companies bring their leases into production. The inspector general concluded that, while there is no guarantee that a particular lease contains oil and gas in commercial quantities, there are no requirements to ensure lessees are taking steps to reach this conclusion and to ensure the development of leases capable of production. Specifically, the inspector general found there are no requirements for the Department to monitor production progress or compel companies to develop leases and there is no requirement to detail activity on nonproducing leases. My bill will ensure the Federal Government develops diligent development requirements for oil and gas leases.

With over 100 billion barrels of oil under Federal lands and waters that are being leased or are available for leasing, Congress must properly encourage their development. This won't solve our energy problems—the unfortunate truth is that in today's global market, gas prices are dictated less by our domestic production and more by OPEC's actions. Nevertheless, Congress must ensure appropriate oversight of our Federally leased lands and waters, as we simultaneously reduce our dependence on foreign oil through continuing to be a world leader in oil and gas production, decreasing our demand of oil and gas since we are the No. 1 consumer of both in the world, and pursuing alternative energy sources especially in the transportation sector.

By Mr. WHITEHOUSE:

S. 1624. A bill to amend title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems, and for other purposes; to the Committee on the Judiciary.

Mr. WHITEHOUSE. Mr. President, I rise today to introduce legislation that would help families struggling with medical debts overcome hurdles that under current law make it difficult for them to find relief in the bankruptcy system. With medical costs at an all-time high and the unemployment rate hovering near 10 percent nationwide—and 12.4 percent in my home State of Rhode Island—too many individuals and families struck with injury and illness have no other option but to file for bankruptcy. According to a recent Harvard University study, health care-related costs have been a primary driver of personal bankruptcy filings, contributing to over 62 percent of filings in 2007.

The statistics are as shocking as the personal stories are heartbreaking. Countless Rhode Islanders have written to me during my time in office asking for help with crippling medical costs, and I want to share just two of their stories with you today.

Adam, a 23-year-old from Bristol, recently underwent surgery for cancer. Adam's treatment plan requires him to undergo a CT scan every 2 months. While his insurance initially paid for his health costs, he received word not long after his surgery that his policy was ''maxed out'' and that he would have to pay $6,700 out of pocket for an upcoming CT scan. As of today, Adam, a young man just starting his adult life, has $20,000 in medical debt and reports that he ''cannot see any light at the end of the tunnel.''

Robert, a veteran and retiree also from Warwick, suffered a major heart attack in November of 2004. Although he had health insurance, Robert was responsible for paying a $2,000 deductible plus 20 percent of the cost of his care. After 40 years of working and saving, these medical costs wiped him out, and he had to sell his home.

Adam and Robert have both suffered unexpected medical costs that have turned their lives upside down. These Rhode Islanders, like millions of others nationwide, may be forced to file for bankruptcy to get a clean start—but when they do, they will learn that the bankruptcy process can be time consuming and costly and ultimately may not allow them to stay in their homes.

The legislation that I am introducing today, the Medical Bankruptcy Fairness Act of 2009, would help people who because of medical costs have no other choice but to file for bankruptcy. The bill would waive procedural hurdles so that Adam and Robert would have the option of a speedier, less expensive, and more efficient bankruptcy. To begin with, it would waive credit counseling requirements for these debtors. Such requirements have little relevance to people whose debt stems not from poor budgeting but, rather, from uncontrollable medical expenses. The bill would also waive the so-called ''means test,'' making the filing process quicker and less costly and making sure that people have the ability to file to have their debts discharged in chapter 7, as opposed to a chapter 13 plan under which they would have made debt payments for 3 to 5 years.

In addition to removing these procedural hurdles, the Medical Bankruptcy Fairness Act would give people with high levels of medical debt the ability to retain at least $250,000 in home value through the bankruptcy process. The ''homestead exemption'' is one of many aspects of bankruptcy law that looks to the laws of the individual States. While filers in some States already have the ability to preserve home equity at this level, a number of States offer homestead exemptions of $5,000 or less. With the average home price nationwide around $200,000, the $250,000 exemption included in this bill will allow the majority of individuals and families crushed by medical debt to keep their homes.

Finally, the bill would eliminate an obstacle that prevents many bankruptcy filers from accessing the chapter 7 bankruptcy system, which as I mentioned earlier is the simplest and most efficient form of bankruptcy. Because attorneys' fees are ''discharged'' at the end of a chapter 7 bankruptcy, attorneys generally require the upfront payment of fees in chapter 7 proceedings. Many debtors who would be better off filing for a quicker and less costly bankruptcy in chapter 7 are forced to file in chapter 13 because they don't have enough cash to pay the attorney. The Medical Bankruptcy Fairness Act would make attorneys' fees nondischargeable in chapter 7 bankruptcies, as in chapter 13 bankruptcies, making it easier for debtors to elect the more efficient chapter 7 proceeding.

Before I conclude, I want to acknowledge the hard work of my colleague from Massachusetts, Senator KENNEDY, on the issue of medical debt. Senator KENNEDY offered amendments during the consideration of the 2005 bankruptcy reforms that would have given people struggling with medical debts treatment similar to that which they would get under the Medical Bankruptcy Fairness Act. Unfortunately, those amendments were voted down. I look forward to working with Senator KENNEDY to make sure that we don't miss another opportunity to help Americans struggling with medical debt.

There are people in every State suffering from medical hardship and related debts who would benefit from this legislation. I urge my colleagues to work with me to pass it to Adam and Robert and the millions like them nationwide a clean start in bankruptcy.

By Mr. DODD (for himself and Mr. BINGAMAN):

S. 1625. A bill to amend title II of the Public Health Service Act to provide for an improved method to measure poverty so as to enable a better assessment of the effects of programs under the Public Health Service Act and the Social Security Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I wish to speak about poverty and, specifically, how we measure it and its influence on millions of Americans.

When we return from the August recess, the Census Bureau will release its

annual report documenting the number of Americans living in poverty. But these numbers will provide a flawed picture of poverty in America since they are based almost exclusively on 50-year-old food prices. The bill I am introducing today, the Measuring American Poverty, or MAP, Act, directs the Census to develop a new poverty measure that is based on a more comprehensive definition of need. Improving the poverty measure is not just an academic exercise for statisticians, it is essential in helping us identify and implement effective policies that address this crisis.

Even with an inaccurate measurement, the picture of poverty in America is startling. In 2007, the year for which we have the most recent data, one in eight Americans—and nearly one in five children—didn't have the resources to meet their basic needs: food, clothing, and shelter. Think about that. One in five children in America in 2007 went to bed without even the most basic elements that we take for granted. In my home State of Connecticut, more than 85,000 kids lived in poverty. And that was before the economic downturn in which we now find ourselves. The Center for American Progress estimates that the cost to our Nation of persistent child poverty is $½ trillion each year. Every year a child stays in poverty reduces future productivity over the course of his or her working life by nearly $12,000.

But the cost is more than just financial—it is moral. We are judged, Hubert Humphrey famously said, by how we treat those in the shadows of life. And every child who goes to bed hungry, every American who lacks the basic necessities of life, is a mark on our national conscience. As we struggle with the great challenges of our time, the crisis of poverty is growing. More and more Americans find that shadow creeping toward them. The Center on Budget and Policy Priorities estimated that if unemployment were to rise to 9 percent—our current unemployment rate is 9.5 percent, the highest rate in 26 years—the number of Americans in poverty would increase by as many as 10.3 million, and the number of children in poverty would rise by as many as 3.3 million.

To put those numbers in perspective, this recession will add a number of Americans equivalent to the population of Michigan to the current number who live in poverty, which is already equivalent to the population of California. In my home State of Connecticut and across this country, people who have long worked hard to get ahead are falling further behind. Folks who have worked two jobs with an eye toward sending their kids to college are having to choose between purchasing food and medications. They are hoping that a child's hacking cough doesn't turn into something more serious because they can't afford to see a doctor. They are staying up late staring at unpaid bills, wondering how to pay their mortgage when their only incomes from their meager savings and unemployment insurance, wondering what happened to their America dream.

The vast majority of people who are poor do not lack the desire for a better life for themselves and their family. They are not poor in their work ethic, their love for their country and their communities. They are in poverty, but they are not poor in the qualities that we so admire in America. The truth is, many are unlucky and face insurmountable hurdles. For some that hurdle is their inability to pay for higher education. For others it is that they work two jobs and can't read to their kids at night like they want to. And far too many others are struggling to pay their mortgage and are spending all their retirement savings just to keep a roof over their heads.

As many hard-working Americans are engulfed by the shadow of poverty, we remember Hubert Humphrey's admonition, but too often we can't even see into those shadows because the way we measure poverty in America is badly outdated. It is that challenge to which I today urge this body to rise.

Currently, we measure poverty by comparing two numbers: the money a family has, which the census refers to as an ''income measure,'' and the money a family needs to meet its basic needs, which experts call the ''poverty threshold.'' If a family's income measure is less than the threshold, they are counted as poor. It is a simple calculation. But unfortunately both elements—the income measure and the threshold—are flawed.

The poverty threshold was created using data from the 1950s and 1960s. Currently, it is calculated by taking the 1950s cost of emergency foodstuffs—food only for temporary use when funds are low—and multiplying that number by three because in the 1960s, food represented one-third of a family budget. But today, food represents one-sixth or one-seventh of a family's budget. Similarly, a family's cash income before taxes was once an accurate and straightforward way to measure a family's resources. But today, many Americans are subject to both State and Federal income taxes and may face exorbitant health costs or other critical needs which drain their resources. In addition, many women now work outside the home, meaning they now need pay for childcare and for getting to and from work.

And on the other side of the ledger, we now provide many benefits to low income workers that are not cash payments—they are provided through our Tax Code, or like energy assistance programs, paid directly to providers. I have fought throughout my career for programs that lift people out of poverty. Think of the earned-income tax credit, food assistance, housing assistance, home energy assistance, child care assistance—hundreds of billions of dollars spent to help Americans that aren't accounted for when we calculate whether our efforts are working. So, we need a new way to measure both what a family needs and what a family has.

When Mayor Bloomberg decided to tackle poverty in New York City, he started by doing what any successful businessman would—he surveyed the problem. But he discovered that our outdated system of measuring poverty simply didn't allow him to see what was really happening. So the mayor charged his Center for Economic Opportunity with creating a system that would better represent that threshold, as well as a family's resources. They followed the recommendation of the National Academy of Sciences 1995 panel described in ''Measuring Poverty: An Improved Approach.'' The legislation I offer today also follows these guidelines.

Specifically, this bill—the Measuring American Poverty Act—updates the calculations for both threshold and resources in the Federal poverty measure. The poverty threshold would be based on the current prices of food, clothing, shelter, utilities, and a few basic household expenses. And it would revise the current measurement of income to better reflect the reality that Americans not only must pay taxes but also certain unavoidable expenses like transportation to and from work, childcare, and medical expenses. This revised measure would also include the value of near-cash benefits like energy assistance, food stamps, section 8 housing vouchers, and tax credits such as the earned-income tax credit.

Let me be very clear: this isn't a bill to change eligibility for programs or the allocation of Federal funds. In fact, the bill's text is explicit about that. The MAP Act creates a new measurement. It does not replace the Federal Poverty Line. It does not change eligibility for programs. It will not lead to an unprecedented automatic increase in spending.

What the MAP Act will do is help us to understand the scope of the poverty crisis in America, and to better evaluate the effectiveness of our solutions to it. We have a difficult job ahead of us, as we look to lift Americans out of poverty, provide middle-class families with a strong safety net, and restore the American Dream for working men and women. But we must begin by facing unafraid the true nature and scope of the poverty crisis. I urge my colleagues to join me in support of this legislation.

By Mr. HARKIN:

S. 1627. A bill to improve choices for consumers for vehicles and fuel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HARKIN. Mr. President, our national energy situation continues to deteriorate. Volatile petroleum and gasoline prices threaten our economy, and our oil imports are responsible for an incredibly large wealth transfer

from America to global oil producers. Our most immediate and visible energy challenge is our dependence on petroleum-derived fuels for transportation, but we also face the need to reduce the greenhouse gases that result principally from fossil fuel production and use. Because our global warming challenge is fundamentally linked to our energy systems, their resolution has a common strategy—to transform our energy sector to one far less dependent on fossil fuels and far more reliant on energy efficiency and domestic renewable energy supplies. This energy transformation strategy also represents a crucial economic recovery and development opportunity because millions of jobs will be created as we carry out this strategy.

Americans recognize the magnitude and the urgency of our energy challenges. They rightfully expect us to adopt policies to move this energy transition forward. In particular, we need to reduce dependence on oil in transportation, and we have broad agreement on two fundamental approaches—increasing efficiency of vehicles and increasing use of alternative fuels. We mandated more efficient vehicles by passing the Energy Independence and Security Act of 2007, EISA. That bill also mandates a brisk expansion of biofuels production under the renewable fuels standard. However, we also need to expand the number of vehicles that can use these alternative fuels and the number of filling stations selling these biofuels.

Today I am joined by my esteemed colleague, Senator LUGAR of Indiana, in introducing the Consumer Fuels and Vehicles Choice Act of 2009. This bill will expand the number of alternative fuel automobiles at a rapid pace while not imposing undue production cost challenges for our auto manufacturers. It calls for 50 percent of all automobiles manufactured for sale in the United States to be dual-fuel automobiles by 2011. It increases that to 90 percent of all automobiles manufactured for U.S. sales by 2013. These requirements are reasonable because it is known that gasoline automobiles require relatively minor changes in fuel system designs to be able to use blends of gasoline and ethanol which qualify them for dual fuel designation.

This bill also requires that major fuel distributors install blender pumps in increasing numbers of the retail fueling stations carrying their brand name. These blender pumps will be capable of dispensing ethanol and gasoline blends ranging from 0 percent ethanol to 85 percent ethanol. This flexibility in blend choice is expected to be attractive to consumers, including those who want to use regular gasoline for nonautomotive engines. This bill also authorizes grants of up to 50 percent of the cost for installing blender pumps and tanks and other infrastructure needed for selling ethanol fuel blends.

Mr. President, the requirements established and assistance authorized in this bill will ensure that the number of dual fuel automobiles and the availability of ethanol fuel blends are expanding apace with the expansion of ethanol production and use in our national fuel supply over the next 15 years and beyond. Taken together, our increasing production of biofuels, our incentives for installation of alternative fuel infrastructure, and this automobile requirement will provide Americans the option of choosing clean, domestically produced fuels for their personal transportation needs in the future. These steps represent critical components in the transition of our energy systems away from fossil and imported fuels toward the benefits of greater reliance on sustainable domestic fuel sources.

Today I urge my Senate colleagues to join us in taking action to boost the transition to a cleaner, more resilient, and more secure energy economy. I urge their support for this bill and its rapid enactment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Consumer Fuels and Vehicle Choice Act of 2009''.

SEC. 2. ENSURING THE AVAILABILITY OF DUAL FUELED AUTOMOBILES AND LIGHT DUTY TRUCKS.

(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by inserting after section 32902 the following:

''§ 32902A. Requirement to manufacture dual fueled automobiles and light duty trucks

''(a) IN GENERAL.—For each model year listed in the following table, each manufacturer shall ensure that the percentage of automobiles and light duty trucks manufactured by the manufacturer for sale in the United States that are dual fueled automobiles and light duty trucks is not less than the percentage set forth for that model year in the following table:

''Model Year	Percentage
Model years 2011 and 2012	50 percent
Model year 2013 and each subsequent model year.	90 percent

''(b) EXCEPTION.—Subsection (a) shall not apply to automobiles or light duty trucks that operate only on electricity.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 329 of title 49, United States Code, is amended by inserting after the item relating to section 32902 the following:

''32902A. Requirement to manufacture dual fueled automobiles and light duty trucks.''.

(c) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall prescribe regulations to carry out the amendments made by this Act.

SEC. 3. BLENDER PUMP PROMOTION.

(a) BLENDER PUMP GRANT PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) BLENDER PUMP.—The term ''blender pump'' means an automotive fuel dispensing pump capable of dispensing at least 3 different blends of gasoline and ethanol, as selected by the pump operator, including blends ranging from 0 percent ethanol to 85 percent denatured ethanol, as determined by the Secretary.

(B) E–85 FUEL.—The term ''E–85 fuel'' means a blend of gasoline approximately 85 percent of the content of which is ethanol.

(C) ETHANOL FUEL BLEND.—The term ''ethanol fuel blend'' means a blend of gasoline and ethanol, with a minimum of 0 percent and maximum of 85 percent of the content of which is denatured ethanol.

(D) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) GRANTS.—The Secretary shall make grants under this subsection to eligible facilities (as determined by the Secretary) to pay the Federal share of—

(A) installing blender pump fuel infrastructure, including infrastructure necessary—

(i) for the direct retail sale of ethanol fuel blends (including E–85 fuel), including blender pumps and storage tanks; and

(ii) to directly market ethanol fuel blends (including E–85 fuel) to gas retailers, including inline blending equipment, pumps, storage tanks, and loadout equipment; and

(B) providing subgrants to direct retailers of ethanol fuel blends (including E–85 fuel) for the purpose of installing fuel infrastructure for the direct retail sale of ethanol fuel blends (including E–85 fuel), including blender pumps and storage tanks.

(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 50 percent of the total cost of the project.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection, to remain available until expended—

(A) $50,000,000 for fiscal year 2010;

(B) $100,000,000 for fiscal year 2011;

(C) $200,000,000 for fiscal year 2012;

(D) $300,000,000 for fiscal year 2013; and

(E) $350,000,000 for fiscal year 2014.

(b) INSTALLATION OF BLENDER PUMPS BY MAJOR FUEL DISTRIBUTORS AT OWNED STATIONS AND BRANDED STATIONS.—Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended by adding at the end the following:

''(13) INSTALLATION OF BLENDER PUMPS BY MAJOR FUEL DISTRIBUTORS AT OWNED STATIONS AND BRANDED STATIONS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) E–85 FUEL.—The term 'E–85 fuel' means a blend of gasoline approximately 85 percent of the content of which is ethanol.

''(ii) ETHANOL FUEL BLEND.—The term 'ethanol fuel blend' means a blend of gasoline and ethanol, with a minimum of 0 percent and maximum of 85 percent of the content of which is denatured ethanol.

''(iii) MAJOR FUEL DISTRIBUTOR.—

''(I) IN GENERAL.—The term 'major fuel distributor' means any person that owns a refinery and directly markets the output of a refinery.

''(II) EXCLUSION.—The term 'major fuel distributor' does not include any person that owns less than 50 retail fueling stations.

''(iv) SECRETARY.—The term 'Secretary' means the Secretary of Energy, acting in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Agriculture.

''(B) REGULATIONS.—The Secretary shall promulgate regulations to ensure that each major fuel distributor that sells or introduces gasoline into commerce in the United States through majority-owned stations or branded stations installs or otherwise makes available 1 or more blender pumps that dispense E–85 fuel and ethanol fuel blends (including any other equipment necessary, such

as tanks, to ensure that the pumps function properly) for a period of not less than 5 years at not less than the applicable percentage of the majority-owned stations and the branded stations of the major fuel distributor specified in subparagraph (C).

''(C) APPLICABLE PERCENTAGE.—For the purpose of subparagraph (B), the applicable percentage of the majority-owned stations and the branded stations shall be determined in accordance with the following table:

"Applicable percentage of majority-owned stations and branded stations

Calendar year:	Percent:
2011	10
2013	20
2015	35
2017 and each calendar year thereafter	50.

''(D) GEOGRAPHIC DISTRIBUTION.—

''(i) IN GENERAL.—Subject to clause (ii), in promulgating regulations under subparagraph (B), the Secretary shall ensure that each major fuel distributor described in that subparagraph installs or otherwise makes available 1 or more blender pumps that dispense E–85 fuel and ethanol fuel blends at not less than a minimum percentage (specified in the regulations) of the majority-owned stations and the branded stations of the major fuel distributors in each State.

''(ii) REQUIREMENT.—In specifying the minimum percentage under clause (i), the Secretary shall ensure that each major fuel distributor installs or otherwise makes available 1 or more blender pumps described in that clause in each State in which the major fuel distributor operates.

''(E) FINANCIAL RESPONSIBILITY.—In promulgating regulations under subparagraph (B), the Secretary shall ensure that each major fuel distributor described in that subparagraph assumes full financial responsibility for the costs of installing or otherwise making available the blender pumps described in that subparagraph and any other equipment necessary (including tanks) to ensure that the pumps function properly.

''(F) PRODUCTION CREDITS FOR EXCEEDING BLENDER PUMPS INSTALLATION REQUIREMENT.—

''(i) EARNING AND PERIOD FOR APPLYING CREDITS.—If the percentage of the majority-owned stations and the branded stations of a major fuel distributor at which the major fuel distributor installs blender pumps in a particular calendar year exceeds the percentage required under subparagraph (C), the major fuel distributor shall earn credits under this paragraph, which may be applied to any of the 3 consecutive calendar years immediately after the calendar year for which the credits are earned.

''(ii) TRADING CREDITS.—Subject to clause (iii), a major fuel distributor that has earned credits under clause (i) may sell the credits to another major fuel distributor to enable the purchaser to meet the requirement under subparagraph (C).

''(iii) EXCEPTION.—A major fuel distributor may not use credits purchased under clause (ii) to fulfill the geographic distribution requirement in subparagraph (D).''.

By Mr. UDALL, of Colorado (for himself and Mrs. HAGAN):

S. 1628. A bill to amend title VII of the Public Health Service Act to increase the number of physicians who practice in underserved rural communities; to the Committee on Health, Education, Labor, and Pensions.

Mr. UDALL of Colorado. Mr. President, I rise today to introduce an important piece of legislation on behalf of myself and Senator KAY HAGAN of North Carolina, the Rural Physician Pipeline Act of 2009.

In making my way across my home State, I have listened to rural constituents from all over Colorado, and their message is clear: rural communities are being hit hard by America's health care crisis.

The life expectancy for women in many rural counties across the Nation has declined significantly over the past several decades, and health outcomes for Hispanic, Native American, and other minority populations are at unacceptable levels. Low-income rural Americans in these areas have very few options for affordable access to health care, if they have any at all.

Just over 2 weeks ago, I reached out to health care providers and professionals in rural regions of Colorado that have been most impacted by our ailing health system to hear directly from those on health care's front lines. While there are many factors contributing to the lower health outcomes we are seeing in these regions, including regulatory hurdles and low reimbursement rates for rural clinics and hospitals, the physicians and health professionals I spoke with were pretty clear about the overwhelming culprit: lack of primary care doctors.

Invoking imagery of the black bag toting doctor from decades ago making house calls to treat all that ailed you and your family, primary care physicians are still the lynchpin of our health care system. These physicians are the most familiar to Americans—they are the family doctor, general practitioner, and pediatrician, and they are many times the only point of contact that people have with the health care system. They are the first line of defense for keeping our families healthy.

Unfortunately, as the entire Nation suffers from a shortage of primary care doctors, our rural areas are hit the hardest. For a variety of socioeconomic and resource-related reasons, rural communities struggle to compete with big cities in recruiting from an already scarce pool of doctors. Some of these barriers are inherent to these areas—lack of job opportunities for spouses or a general lack of desire to live the lifestyle offered by our rural communities. But some barriers can be overcome if we use our resources wisely and work toward solutions to break them down, particularly with respect to how we as a nation train and compensate our front line doctors.

Medical school is where we develop and educate our new doctors, yet the 4 years of training they provide more often than not nudge students into more lucrative specialty care or toward practice in higher paying cities. While we certainly rely on our cardiologists, orthopedists, neurologists, and the many other medical specialists to provide the top-notch care that only they are trained to provide, we cannot continue to push students into these areas to the detriment of primary care. A balance needs to be found.

Today, I am proud to introduce, along with Senator KAY HAGAN of North Carolina, the Rural Physician Pipeline Act of 2009, a bill that I hope can be part of the solution to our rural physician shortage. This legislation would make grants available to medical schools across the country for establishing programs designed to recruit students from rural areas who have a desire to practice in their hometowns. These programs would cultivate and strengthen the rural commitment of these future ''homegrown'' doctors, provide them the specialized training necessary to excel in the unique environment of sparsely populated regions, and assist them in finding post-graduate training programs that specialize in training doctors for practice in underserved rural communities.

Primary care doctors in rural areas face challenges that urban doctors do not. When a physician is the only health care provider for an entire county, he or she cannot refer patients down the hall to a specialist. The rural training programs encouraged by this bill would give students additional training in pediatrics, emergency medicine, obstetrics, and behavioral health, among other areas, which will allow them to better serve their communities and hopefully lower the disturbing disparities of health outcomes we have seen over the years.

I was prompted to write this bill after seeing the promising results of a similar program at the University of Colorado School of Medicine. Faculty like associate dean for rural health, Dr. Jack Westfall, and rural health track director, Dr. Mark Deutchman, have found that reaching out to rural communities for student recruitment and reinforcing their rural commitment throughout their training is the best way to get them back into the communities that need them most.

My hope is that an expansion of similar programs nationwide will provide a ''one, two punch'' for the rural physician workforce—it will train more rural doctors, and it will train them better.

I recognize that this legislation would play only a modest role in tackling the immense workforce challenges our health care system faces. We need more equitable payments for low-paid primary care doctors, loan-forgiveness programs must be expanded to allow medical graduates to practice primary care without going into budget-crushing debt, and graduate medical education dollars need to be more flexible so that rural residency programs can be established to train graduates.

Health care reform needs to address these areas.

As my fellow Senators and I depart Washington for our home States to listen to the ideas, needs, and concerns of our constituents over the remainder of the month, We do so with the knowledge that there is much to accomplish

upon our return. And as Congress continues working toward a health reform bill that puts the patient in charge of his or her health care choices, brings costs down, ensures financial sustainability, and brings security and stability for all Americans, there is one other thing we must also insist: health reform will not leave rural America behind.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Physician Pipeline Act of 2009''.

SEC. 2. RURAL PHYSICIAN TRAINING GRANTS.

Part C of Title VII of the Public Health Service Act (42 U.S.C. 293k et seq.) is amended—

(1) after the part heading, by inserting the following:

"Subpart I—Medical Training Generally"; and

(2) by inserting at the end the following:

"Subpart II—Training in Underserved Communities

"SEC. 749. RURAL PHYSICIAN TRAINING GRANTS.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall establish a program to make grants to eligible entities for the purposes of—

''(1) assisting eligible entities in recruiting students most likely to practice medicine in underserved rural communities;

''(2) providing rural-focused training and experience; and

''(3) increasing the number of recent allopathic and osteopathic medical school graduates who practice in underserved rural communities.

''(b) ELIGIBLE ENTITIES.—In order to be eligible to receive a grant under this section, an entity shall—

''(1) be a school of allopathic or osteopathic medicine accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, or any combination or consortium of such schools; and

''(2) submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require, including a certification that such entity—

''(A) will use amounts provided to the institution to—

''(i) establish and carry out a Rural Physician Training Program described in subsection (d);

''(ii) improve an existing rural-focused training program to meet the requirements described in subsection (d) and carry out such program; or

''(iii) expand and carry out an existing rural-focused training program that meets the requirements described in subsection (d); and

''(B) employs, or will employ within a timeframe sufficient to implement the Program (as described by a timetable and supporting documentation in the application of the eligible entity), faculty with experience or training in rural medicine or with experience in training rural physicians.

''(c) PRIORITY.—In awarding grant funds under this section, the Secretary shall give priority to eligible entities that—

''(1) demonstrate a record of successfully training students, as determined by the Secretary, who practice medicine in underserved rural communities;

''(2) demonstrate that an existing academic program of the eligible entity produces a high percentage, as determined by the Secretary, of graduates from such program who practice medicine in underserved rural communities;

''(3) demonstrate rural community institutional partnerships, though such mechanisms as matching or contributory funding, documented in-kind services for implementation, or existence of training partners with interprofessional expertise (such as dental, vision, or mental health services) in community health center training locations or other similar facilities; or

''(4) submit, as part of the application of the entity under subsection (b), a plan for the long-term tracking of where the graduates of such entity are practicing medicine.

''(d) USE OF FUNDS.—

''(1) ESTABLISHMENT.—An eligible entity receiving a grant under this section shall use the funds made available under such grant to—

''(A) establish and carry out a 'Rural Physician Training Program' (referred to in this section as the 'Program');

''(B) improve an existing rural-focused training program to meet the Program requirements described in this subsection and carry out such program; or

''(C) expand and carry out an existing rural-focused training program that meets the Program requirements described in this subsection.

''(2) STRUCTURE OF PROGRAM.—An eligible entity shall—

''(A) enroll no fewer than 10 students per class year into the Program; and

''(B) develop criteria for admission to the Program that gives priority to students—

''(i) who have originated from or lived for a period of 2 or more years in an underserved rural community; and

''(ii) who express a commitment to practice medicine in an underserved rural community.

''(3) CURRICULA.—The Program shall require students to enroll in didactic coursework and clinical experience particularly applicable to medical practice in underserved rural communities, including—

''(A) clinical rotations in underserved rural communities, and in specialties including family medicine, internal medicine, pediatrics, surgery, psychiatry, and emergency medicine;

''(B) in addition to core school curricula, additional coursework or training experiences focused on medical issues prevalent in underserved rural communities, including in areas such as trauma, obstetrics, ultrasound, oral health, and behavioral health; and

''(C) any coursework or clinical experience that—

''(i) may be developed as a result of the Symposium described in subsection (f); or

''(ii) the Secretary finds appropriate.

''(4) RESIDENCY PLACEMENT ASSISTANCE.—Where available, the Program shall assist all students of the Program in obtaining clinical training experiences in locations with postgraduate programs offering residency training opportunities in underserved rural communities, or in local residency training programs that support and train physicians to practice in underserved rural communities, as well as assist all students of the Program in obtaining postgraduate residency training in such programs.

''(5) PROGRAM STUDENT COHORT SUPPORT.—The Program shall provide and require all students of the Program to participate in social, educational, and other group activities designed to further develop, maintain, and reinforce the original commitment of such students to practice in an underserved rural community.

''(e) ANNUAL REPORTING REQUIREMENT.—On an annual basis, an eligible entity receiving a grant under this section shall submit a report to the Secretary on—

''(1) the overall success of the Program established by the entity, based on criteria the Secretary determines appropriate;

''(2) the number of students participating in the Program;

''(3) the number of graduating students who participated in the Program;

''(4) the residency program selection of graduating students who participated in the Program;

''(5) the number of graduates who participated in the Program who are practicing in underserved rural communities not less than one year after completing residency training; and

''(6) the number of graduates who participated in the Program who are not practicing in underserved rural communities not less than one year after completing residency training.

''(f) RURAL TRAINING PROGRAM SYMPOSIUM.—

''(1) PURPOSES OF SYMPOSIUM.—To assist the Secretary in carrying out the Program and making grant determinations under this section, the Secretary shall convene a Rural Training Program Symposium (referred to in this section as the 'Symposium') to—

''(A) develop best practices that may be incorporated into consideration of applications under subsection (b); and

''(B) establish a network of allopathic and osteopathic medical schools that have developed or will develop rural training programs in accordance with subsection (d).

''(2) COMPOSITION.—The Symposium shall include—

''(A) representatives from eligible entities with existing rural training programs;

''(B) representatives from all eligible entities interested in developing the Program;

''(C) representatives from area health education centers;

''(D) representatives from the Health Resources and Services Administration; and

''(E) any other experts or individuals with experience in practicing medicine in underserved rural communities the Secretary determines appropriate.

''(g) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall by regulation define 'underserved rural community' for purposes of this section.

''(h) SUPPLEMENT NOT SUPPLANT.—Any eligible entity receiving funds under this section shall use such funds to supplement, not supplant, any other Federal, State, and local funds that would otherwise be expended by such entity to carry out the activities described in this section.

''(i) MAINTENANCE OF EFFORT.—With respect to activities for which funds awarded under this section are to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives a grant under this section.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

''(1) to carry out this section (other than subsection (f))—

''(A) $4,000,000 for fiscal year 2010;

''(B) $8,000,000 for fiscal year 2011;

''(C) $12,000,000 for fiscal year 2012;

''(D) $16,000,000 for fiscal year 2013; and

''(2) to carry out subsection (f), such sums as may be necessary.''.

By Mr. ROCKEFELLER (for himself and Mr. FRANKEN):

S. 1630. A bill to amend title XVIII of the Social Security Act of improve prescription drug coverage under Medicare part D and to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to improve prescription drug coverage under private health insurance, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with the newest esteemed Member of this Chamber, Senator AL FRANKEN, to introduce the Affordable Access to Prescription Medications Act of 2009. I think this is the first bill we have introduced together, and I look forward to working with him again in the future. The legislation we are introducing today is a critically important bill—one that protects all Americans from high out-of-pocket spending on prescription drugs.

With each passing year, Americans are paying more for their health care. Rising out-of-pocket costs are problematic for all patient populations, but are particularly burdensome for chronically ill and low-income individuals. The health insurance premiums and out-of-pocket costs for those below the federal poverty level are huge, with 28 percent paying more than ten percent of their income. Overall, out-of-pocket spending for individuals insured in the private insurance market is large and rapidly growing, with an increase of 45 percent between 2001 and 2006.

Prescription drugs represent the highest out-of-pocket cost for patients, comprising almost 31 percent of total out-of-pocket spending. The higher the out-of-pocket cost, the fewer individuals fill their needed medications. In fact, about 20 percent of individuals with out-of-pocket spending greater than $250 a month do not fill their prescriptions and, thereby further exacerbate their conditions. Out-of-pocket expenses are only getting worse, especially as prescription drug costs increase. A 2009 survey found that 53 percent of Americans have cut back on health care spending in the last twelve months, as the economy has worsened.

In Medicare specifically, beneficiaries enrolled in a prescription drug plan in 2007 spent $38 a month, on average, for prescription drug co-payments. However, for those on high-cost medications, the cost burden can be enormous. Ninety percent of Medicare prescription drug plans and ten percent of private insurance plans include what is referred to as a specialty tier for medications costing over $600 a month. For these medications, enrollees can be asked to pay up to 33 percent of the drug's cost in copayments.

The high cost of treatment, particularly for life-saving and life-sustaining treatment, poses an unreasonable and devastating barrier for sick patients that can force them to delay or entirely forgo necessary treatment. For one West Virginian, the chemotherapy drug he needs to treat his cancer is more than $13,500 for a 90-day supply. Under his Medicare prescription drug plan, he would have to pay $4000 of that cost. He didn't have $4000, so he chose not to be treated.

Another West Virginian with multiple sclerosis contacted my office recently, and told me that the drug to treat her disease, which allows her to continue to work, costs $1900 a month. Her private insurer changed its policy from a $20 flat copayment for each prescription to 25 percent co-insurance for each prescription, creating a financial burden for her of $475 per month. It should come as no surprise that she is struggling to pay this amount every month.

These West Virginians are just a couple of examples of the millions of Americans who pay their health insurance premiums every month for coverage that is supposed to protect them from such enormous financial losses—but, sadly, it does not. Providing access to affordable prescription drugs for the treatment of chronic diseases is critical to improving our nation's health care system, which is why we are introducing this legislation today. The Affordable Access to Prescription Medications Act will go a long way to address the growing problem of catastrophic prescription drug expenses.

First, this bill will establish a $200 cap on the amount a person could be charged for any one prescription, and a $500 cap on the total amount an individual could be charged for all prescriptions in any given month. These caps apply to all private and public insurance plans, including Medicare prescription drug plans.

Second, this bill establishes an exceptions process for specialty drugs. Currently, the most expensive prescription drugs in the Medicare prescription drug program that are included on specialty tiers are not subject to beneficiary exemption requests, but for all other Medicare-covered prescription drugs, a beneficiary can request an exemption to allow them access to needed drugs. High-cost, specialty drugs can be difficult to access and this bill will allow any beneficiary to request any needed prescription drug, including those in specialty tiers, through the exemption process.

Third, this bill requires the Medicare Payment Advisory Commission, MedPAC, to conduct two studies regarding discrimination and cost-sharing. The first study will review Medicare Part B, Part C, and Part D prescription drug polices to make sure they do not violate the non-discrimination rules passed as part of the 2003 Medicare law. Under 2003 law, plans are prohibited from discriminating against individuals based on medical condition. The second study will examine the impact of prescription drug cost-sharing on beneficiaries and their health, particularly for those who have already paid their way through the so-called doughnut hole.

If enacted, this legislation will protect Americans from high out-of-pocket spending on prescription drugs. Based on studies that explain the problem, this bill could potentially lower copayments for 2.5 to 10 percent of Americans with the highest prescription costs. It will protect all Americans from the risk of incurring extraordinarily high prescription drug costs.

The national cap on out-of-pocket spending for prescription drugs will reduce costs for the most vulnerable populations by over 50 percent. Given the rising costs of drugs, the prevalence of new drugs on the market, and the current economic recession, addressing the affordability of prescriptions drugs is vitally important.

We must act now to make prescription drugs more affordable for all Americans, but especially those with chronic diseases. I urge my colleagues to join me in support of this important bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Affordable Access to Prescription Medications Act of 2009''.

SEC. 2. MEDICARE PART D PRESCRIPTION DRUG PLANS.

(a) IN GENERAL.—Section 1860D–2(b)(4) of the Social Security Act (42 U.S.C. 1395w–102(b)(4)) is amended by adding at the end the following new subparagraph:

''(E) ADDITIONAL PROTECTIONS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this part, effective for plan years beginning on or after January 1, 2011, a PDP sponsor of a prescription drug plan and an MA organization offering an MA–PD plan shall, with respect to any co-payment or coinsurance requirements applicable to covered part D drugs under the plan, ensure that—

''(I) such required co-payment or coinsurance does not exceed the base cost of the covered part D drug (as determined by the Secretary);

''(II) such required co-payment or coinsurance does not exceed $200 per month for any single covered part D drug (30-day supply); and

''(III) such required co-payment or coinsurance does not exceed, in the aggregate for all covered part D drugs, $500 per month.

''(ii) ADJUSTMENTS.—The amounts described in clauses (II) and (III) of clause (i) shall be annually adjusted to reflect the average of the percentage increase or decrease in the Consumer Price Index for all urban consumers (U.S. city average) and the percentage increase or decrease in the medical care component of such Consumer Price Index during the calendar year preceding the year for which the adjustment is being made.''.

(b) EXPANSION OF EXCEPTIONS PROCESS.—Effective for plan years beginning on or after January 1, 2011, the Secretary shall expand the formulary tier exception request process under sections 423.560 through 423.636 of title 42, Code of Federal Regulations (as in effect

on the date of enactment of this Act), to allow individuals enrolled in a prescription drug plan under part D of title XVIII of the Social Security Act or an MA–PD plan under part C of such title to request an exception for a specialty prescription drug to a plan's designation of a covered part D drug (as defined in section 1860D–2(e) of such Act (42 U.S.C. 1395w–102(e)) as a non-preferred prescription drug.

(c) MEDPAC STUDIES AND REPORTS.—

(1) STUDY AND REPORT ON THE MEDICARE PART D ANTI-DISCRIMINATION CLAUSE.—

(A) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on various aspects of the prescription drug program under part D of title XVIII of the Social Security Act and, to the greatest extent practicable, the interaction of such program with Medicare beneficiary access to covered drugs under part B of such title. Such study shall include the following:

(i) An analysis of—

(I) the use of specialty tiers for covered part D drugs under prescription drug plans and MA–PD plans; and

(II) the effect of such specialty tiers on access to care for Medicare beneficiaries.

(ii) Consideration of the mechanisms described in subparagraph (B) in the context of the provisions of section 1860D–11(e)(2)(D) of the Social Security Act (42 U.S.C. 1395w–111(e)(2)(D)) (in this paragraph referred to as the ''Medicare part D anti-discrimination clause'').

(B) MECHANISMS DESCRIBED.—The following mechanisms are described in this subparagraph:

(i) The use of specialty tiers for covered part D drugs under prescription drug plans and MA–PD plans.

(ii) The application of segmented coinsurance or copayment structures to covered part D drugs based on certain categories of such drugs or diagnoses.

(iii) The utilization of other differential benefit structures based on certain conditions and Medicare beneficiaries under prescription drug plans and MA–PD plans, including an analysis of the interaction between such utilization and the effects of such utilization with the Medicare part D anti-discrimination clause.

(C) REPORT.—Not later than 1 year after the date of enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Commission determines appropriate.

(D) REVISED GUIDANCE.—Based on the results of the study conducted under subparagraph (A), the Secretary shall issue revised guidance regarding the use of mechanisms described in subparagraph (B) to all PDP sponsors offering prescription drug plans under part D of title XVIII of the Social Security Act and Medicare Advantage organizations offering MA–PD plans under part C of such title.

(2) STUDY AND REPORT ON COST-SHARING FOR PRESCRIPTION DRUGS UNDER PARTS B AND D.—

(A) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on cost-sharing for prescription drugs under parts B and D of title XVIII of the Social Security Act. Such study shall include an analysis of the impact of eliminating cost-sharing for covered part D drugs for Medicare beneficiaries who—

(i) incur annual out-of-pocket cost-sharing after the initial coverage limit under section 1860D–2(b)(3) of such Act (42 U.S.C. 1395w–102) that exceeds 5 percent of the income of the beneficiary (as determined under section 1860D–14(a)(3)(C) of such Act (42 U.S.C. 1395w–114(a)(3)(C)); and

(ii) do not otherwise qualify for an income-related subsidy under section 1860D–14(a) of such Act (42 U.S.C. 1395w–114(a)) or other extra help or cost-sharing relief.

(B) REPORT.—Not later than 6 months after the date of enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Commission determines appropriate.

(3) DEFINITIONS.—In this section:

(A) COVERED PART D DRUG.—The term ''covered part D drug'' has the meaning given such term in section 1860D–2(e) of the Social Security Act (42 U.S.C. 1395w–102(e)).

(B) MA–PD PLAN.—The term ''MA–PD'' plan has the meaning given such term in paragraph (9) of section 1860D–41(a) of such Act (42 U.S.C. 1395w–151(a)).

(C) MEDICARE ADVANTAGE ORGANIZATION.—The term ''Medicare Advantage organization'' has the meaning given such term in section 1859(a)(1) of such Act (42 U.S.C. 1395w–28(a)(1)).

(D) PDP SPONSOR.—The term ''PDP sponsor'' has the meaning given such term in paragraph (13) of such section 1860D–41(a).

(E) PRESCRIPTION DRUG PLAN.—The term ''prescription drug plan'' has the meaning given such term in paragraph (14) of such section.

SEC. 3. PRIVATE HEALTH INSURANCE.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2708. PROVISIONS RELATING TO PRESCRIPTION DRUGS.

''(a) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for prescription drugs shall, with respect to any co-payment or coinsurance requirements applicable to such drug coverage, ensure that—

''(1) such required co-payment or coinsurance does not exceed the base cost of the prescription drug (as determined by the Secretary);

''(2) such required co-payment or coinsurance does not exceed $200 per month for any single prescription drug (30-day supply); and

''(3) such required co-payment or coinsurance does not exceed, in the aggregate for all prescription drugs, $500 per month.

''(b) ADJUSTMENTS.—The amounts described in paragraphs (2) and (3) of subsection (a) shall be annually adjusted to reflect the average of the percentage increase or decrease in the Consumer Price Index for all urban consumers (U.S. city average) and the percentage increase or decrease in the medical care component of such Consumer Price Index during the calendar year preceding the year for which the adjustment is being made.

''(c) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2708''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 715. PROVISIONS RELATING TO PRESCRIPTION DRUGS.

''(a) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for prescription drugs shall, with respect to any co-payment or coinsurance requirements applicable to such drug coverage, ensure that—

''(1) such required co-payment or coinsurance does not exceed the base cost of the prescription drug (as determined by the Secretary of Health and Human Services);

''(2) such required co-payment or coinsurance does not exceed $200 per month for any single prescription drug (30-day supply); and

''(3) such required co-payment or coinsurance does not exceed, in the aggregate for all prescription drugs, $500 per month.

''(b) ADJUSTMENTS.—The amounts described in paragraphs (2) and (3) of subsection (a) shall be annually adjusted to reflect the average of the percentage increase or decrease in the Consumer Price Index for all urban consumers (U.S. city average) and the percentage increase or decrease in the medical care component of such Consumer Price Index during the calendar year preceding the year for which the adjustment is being made.

''(c) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) with respect to the requirements of this section as if such section applied to such plan.''.

(B) TABLE OF CONTENTS.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 714 the following new item:

''Sec. 715. Provisions relating to prescription drugs.''.

(3) INTERNAL REVENUE CODE AMENDMENTS.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 9813. PROVISIONS RELATING TO PRESCRIPTION DRUGS.

''(a) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for prescription drugs shall, with respect to any co-payment or coinsurance requirements applicable to such drug coverage, ensure that—

''(1) such required co-payment or coinsurance does not exceed the base cost of the prescription drug (as determined by the Secretary of Health and Human Services);

''(2) such required co-payment or coinsurance does not exceed $200 per month for any single prescription drug (30-day supply); and

''(3) such required co-payment or coinsurance does not exceed, in the aggregate for all prescription drugs, $500 per month.

''(b) ADJUSTMENTS.—The amounts described in paragraphs (2) and (3) of subsection (a) shall be annually adjusted to reflect the average of the percentage increase or decrease in the Consumer Price Index for all urban consumers (U.S. city average) and the percentage increase or decrease in the medical care component of such Consumer Price Index during the calendar year preceding the year for which the adjustment is being made.

''(c) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 9813. Provisions relating to prescription drugs.''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

''SEC. 2754. PROVISIONS RELATING TO PRESCRIPTION DRUGS.

''The provisions of section 2708 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2754''.

(c) APPLICATION TO FEHBP.—The amendments made by this section shall apply to the administration of chapter 89 of title 5, United States Code.

By Ms. CANTWELL:

S. 1633. A bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation Business Travel Cards, and for other purposes; to the Committee on Foreign Relations.

Ms. CANTWELL. Mr. President, I rise today to introduce the Asia-Pacific Economic Cooperation, APEC, Business Travel Cards Act of 2009. This bill would authorize the Secretary of Homeland Security and State Department to issue APEC Business Travel Cards, ABTC's, to business leaders from APEC countries and senior government officials who are actively engaged in APEC business.

The ABTC program has 18 nations participating, including China, Japan and Australia, which are among the world's larger economies. The United States currently recognizes foreign issued ABTC travel cards. Cardholders from non-Visa Waiver Program countries need to present valid passports and those from other countries must still obtain U.S. visas as required by United States law. However, ABTC card holders are allowed to benefit from expedited visa interview scheduling at U.S. embassies and consulates, and expedited immigration processing through airline crew and diplomat immigration lanes upon arrival at U.S. international airports. However, under current law U.S. passport holders are not yet eligible to apply for the ABTC program and therefore do not enjoy these same benefits in Asia-Pacific countries. This bill would require the Secretary of Homeland Security to issue ABTCs to United States citizen business leaders and senior government officials actively engaged in APEC business no later than January 1, 2010.

I support the Asia-Pacific Economic Cooperation Business Travel Cards Act because I have long supported increased free trade with the Asia-Pacific region. International business travel is an essential part of selling goods and services around the world. The 21 member economies of APEC together account for around 53 percent of world GDP and approximately 48 percent of global trade. This bill would help facilitate international cooperation and trade by allowing business leaders within the participating countries to enter countries on an expedited basis for the length of the program, currently three years.

The success of the program has been shown by the amount of applications for travel cards since inception of the program in 1997. From 1997, applications received by participating countries have grown by more than 100 percent each year. By March of last year, there were more than 34,000 cards being used by APEC countries. The Asia-Pacific Economic Cooperation Business Travel Cards Act of 2009 will help facilitate global trade within the Asia-Pacific, and create expanded export opportunities for U.S. businesses. Working to grow U.S. exports will get our economy to grow again and create and maintain U.S. jobs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Asia-Pacific Economic Cooperation Business Travel Cards Act of 2009''.

SEC. 2. ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS TRAVEL CARDS.

(a) IN GENERAL.—Not later than January 1, 2010, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish a program called the ''APEC Business Travel Program'' to issue Asia-Pacific Economic Cooperation Business Travel Cards (ABTC) to eligible United States citizen business leaders and senior United States Government officials actively engaged in Asia-Pacific Economic Cooperation (APEC) business.

(b) INTEGRATION WITH EXISTING TRAVEL PROGRAMS.—The Secretary of Homeland Security shall integrate application procedures for and issuance of ABTC with other appropriate international registered traveler programs of the Department of Homeland Security, such as Global Entry, NEXUS, and SENTRI.

(c) COOPERATION WITH PRIVATE ENTITIES.—In carrying out this section, the Secretary of Homeland Security shall work in conjunction with appropriate private sector entities to ensure that applicants for ABTC satisfy ABTC requirements. The Secretary of Homeland Security may utilize such entities to enroll and issue ABTC to qualified applicants.

(d) FEE.—

(1) IN GENERAL.—The Secretary of Homeland Security may impose a fee for the issuance of ABTC, and may modify such fee from time to time as the Secretary determines appropriate.

(2) LIMITATION.—The Secretary of Homeland Security shall ensure that the total amount of any fees imposed under paragraph (1) in any fiscal year does not exceed the costs associated with carrying out this section in such fiscal year.

(3) CREDITING TO APPROPRIATE ACCOUNT.—Fees collected under paragraph (1) shall be credited to the appropriate account of the Department of Homeland Security and are authorized to remain available until expended.

By Mr. ROCKEFELLER (for himself, Mr. AKAKA, and Mr. BROWN):

S. 1634. A bill to amend titles XVIII and XIX of the Social Security Act to protect and improve the benefits provided to dual eligible individuals under the Medicare and Medicaid programs; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with my colleagues, Senator AKAKA and Senator BROWN, to introduce the Medicare Prescription Drug Coverage Improvement Act, legislation that makes long overdue improvements to the Medicare prescription drug program, particularly for Medicare beneficiaries who are simultaneously enrolled in Medicaid. Know as ''dual eligibles,'' these individuals are among our nation's most vulnerable populations—and they have been overlooked for far too long.

Approximately 8.8 million Americans are simultaneously enrolled in Medicare and Medicaid, and they are among the sickest and poorest individuals covered by either program. Most dual eligibles are very low-income, in poor health, and have substantial health care needs. Seventy-one percent of dual eligibles have annual incomes below $10,000. Over half of all elderly dual eligibles are limited in activities of daily living and, in comparison to other Medicare beneficiaries, are three times more likely to be disabled. Dual eligibles also have higher rates of heart disease, pulmonary disease, diabetes, and Alzheimer's disease than the general Medicare population.

After passage of the Medicare prescription drug law, Members of Congress and health care advocates alike tried for more than a year to work with the Bush Administration to prevent prescription drug coverage barriers for dual eligibles and other low-income Medicare beneficiaries. I introduced the Medicare Dual Eligible Prescription Drug Coverage Act of 2005, S. 566. and the Requiring Emergency Pharmaceutical Access for Individual Relief, REPAIR, Act of 2006, S. 2183, to prevent disruptions in coverage for vulnerable seniors and individuals with disabilities.

Unfortunately, effective fail-safe mechanisms were not put into place by the previous Administration to address the transition of the dual eligibles to Medicare prescription drug coverage. Consequently, millions of elderly and disabled Medicare recipients continue to experience significant barriers to care.

Health care problems persist for the dually eligible largely because of poor coordination between Medicare and Medicaid—which have two different sets of providers, two different sets of benefits, and two different sets of enrollment policies. The legislation we

are introducing today will go a long way to provide dual eligibles with the right care, in the right setting, and at the right time.

Additionally, the Medicare Prescription Drug Coverage Improvement Act will provide more affordable and comprehensive prescription drug coverage for all Medicare beneficiaries.

First, this bill will create a new Federal Coordinated Health Care Office within the Centers for Medicare and Medicaid Services, CMS. The purpose of this new office will be to provide a much more integrated model of care for dual eligibles by coordinating their Medicare and Medicaid benefits.

Second, this bill contains two provisions to help make prescription drugs more affordable and accessible for all Medicare beneficiaries—it allows the Secretary of Health and Human Services to negotiate directly with pharmaceutical companies to lower prescription drug prices and it creates a Medicare-operated prescription drug plan.

The Secretary would be required to implement two or more of the following strategies on an annual basis to reduce the cost of prescription drugs covered by Medicare: direct price negotiation with pharmaceutical manufacturers, additional rebate agreements for Medicare prescription drugs that are consistent with the rebate agreements provided to states for Medicaid, comparative clinical effectiveness data, or prescription drug rates negotiated under the Federal Supply Schedule.

A Medicare-operated prescription drug plan would be created by the Secretary of HHS. This plan would be a stable and affordable option available to all Medicare beneficiaries. This plan would create a robust prescription drug formulary based on patient safety, efficacy and value. The formulary incentive process would be transparent and uniform. An advisory committee would be created to review petitions for drug inclusion and recommend formulary changes. This Medicare-operated plan will create fair-market competition and lead to less costly drug choices for Medicare recipients.

Third, this bill contains significant new requirements for Medicare Advantage Special Needs Plans. These plans serve extremely vulnerable populations, including dual eligibles; yet, they have very few standards that they are required to abide by. The Medicare Prescription Drug Improvement Act will require special needs plans to be accredited by the National Committee for Quality Assurance. Additionally, our legislation requires special needs plans to provide more robust prescription drug coverage, meet uniform standards for data collection and reporting, and offer better care coordination.

Finally, this bill will implement a number of technical fixes to facilitate enrollment in the Medicare prescription drug benefit for those who qualify. State and Federal officials will be required to clearly identify dual eligibles in all databases and electronically file eligibility information, so that these beneficiaries will not continue to fall through the cracks. Pharmacies will use a facilitated point-of-sale enrollment process and automatically enroll certain dual eligible individuals in the Medicare-operated prescription drug plan. New limits on cost-sharing and resource requirements for low-income beneficiaries will also be put into place. Prescription drug cost-sharing for dual eligibles who are using home and community-based services, instead of institutionalized care, will be eliminated.

We are in the midst of discussing sweeping changes to our health care system. In addition to provisions to help the uninsured, health care reform must also include provisions to improve the coverage that people have today. This is especially true for seniors and individuals with disabilities. The Medicare prescription drug program is extremely difficult to navigate and many enrollees are still denied access to the prescription drugs that they need. This legislation will make the Medicare prescription drug program much more manageable for seniors and individuals with disabilities, particularly those dually eligible for Medicare and Medicaid.

The time for action is now, and I urge my colleagues to join us in support of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Prescription Drug Coverage Improvement Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE AND MEDICAID IMPROVEMENTS

Sec. 101. Providing Federal coverage and payment coordination for low-income Medicare beneficiaries.
Sec. 102. Creating a Medicare operated prescription drug plan option.
Sec. 103. Accreditation requirement for all specialized Medicare Advantage plans and revisions relating to specialized Medicare Advantage plans for special needs individuals.
Sec. 104. Providing better care coordination for low-income beneficiaries in Medicare part D.
Sec. 105. Improving transition of new dual eligible individuals to medicare prescription drug coverage and presumptive eligibility for low-income subsidies.
Sec. 106. Required information on transition from skilled nursing facilities and nursing facilities to part D plans.
Sec. 107. Streamlined pharmacy compliance packaging.
Sec. 108. Lowering covered part D drug prices on behalf of Medicare beneficiaries.
Sec. 109. Correction of flaws in determination of phased-down State contribution for Federal assumption of prescription drug costs for dually eligible individuals.
Sec. 110. No impact on eligibility for benefits under other programs.
Sec. 111. Quality indicators for dual eligible individuals.

TITLE II—ADDITIONAL MEDICARE AND MEDICAID IMPROVEMENTS

Subtitle A—Improving the Financial Assistance Available to Low-Income Medicare Beneficiaries

Sec. 201. Improving assets tests for Medicare Savings Program and low-income subsidy program.
Sec. 202. Eliminating barriers to enrollment.
Sec. 203. Elimination of part D cost-sharing for certain non-Institutionalized full-benefit dual eligible individuals.
Sec. 204. Exemption of balance in any pension or retirement plan from resources for determination of eligibility for low-income subsidy.
Sec. 205. Cost-sharing protections for low-income subsidy-eligible individuals.

Subtitle B—Other Improvements

Sec. 211. Enrollment improvements under Medicare parts C and D.
Sec. 212. Medicare plan complaint system.
Sec. 213. Uniform exceptions and appeals process.
Sec. 214. Prohibition on conditioning Medicaid eligibility for individuals enrolled in certain creditable prescription drug coverage on enrollment in the Medicare part D drug program.
Sec. 215. Office of the Inspector General annual report on part D formularies' inclusion of drugs commonly used by dual eligibles.
Sec. 216. HHS ongoing study and annual reports on coverage for dual eligibles.
Sec. 217. Authority to obtain information.

TITLE I—MEDICARE AND MEDICAID IMPROVEMENTS

SEC. 101. PROVIDING FEDERAL COVERAGE AND PAYMENT COORDINATION FOR LOW-INCOME MEDICARE BENEFICIARIES.

(a) ESTABLISHMENT OF FEDERAL COORDINATED HEALTH CARE OFFICE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than October 1, 2009, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a Federal Coordinated Health Care Office.

(B) ESTABLISHMENT AND REPORTING TO CMS ADMINISTRATOR.—The Federal Coordinated Health Care Office shall—

(i) be established within the Centers for Medicare & Medicaid Services; and

(ii) report directly to the Administrator of the Centers for Medicare & Medicaid Services.

(2) PURPOSE.—The purpose of the Federal Coordinated Health Care Office is to bring together officials of the Medicare and Medicaid programs at the Centers for Medicare & Medicaid Services in order to—

(A) more effectively integrate benefits under the Medicare program under title XVIII of the Social Security Act and the Medicaid program under title XIX of such Act; and

(B) improve the coordination between the Federal Government and States for individuals eligible for benefits under both such

programs in order to ensure that such individuals get full access to the items and services to which they are entitled under titles XVIII and XIX of the Social Security Act.

(3) GOALS.—The goals of the Federal Coordinated Health Care Office are as follows:

(A) Providing dual eligible individuals full access to the benefits to which such individuals are entitled under the Medicare and Medicaid programs.

(B) Simplifying the processes for dual eligible individuals to access the items and services they are entitled to under the Medicare and Medicaid programs

(C) Improving the quality of health care and long-term services for dual eligible individuals.

(D) Increasing beneficiary understanding of and satisfaction with coverage under the Medicare and Medicaid programs.

(E) Eliminating regulatory conflicts between rules under the Medicare and Medicaid programs.

(F) Improving care continuity and ensuring safe and effective care transitions.

(G) Eliminating cost-shifting between the Medicare and Medicaid program and among related health care providers.

(H) Improving the quality of performance of providers of services and suppliers under the Medicare and Medicaid programs.

(4) SPECIFIC RESPONSIBILITIES.—The specific responsibilities of the Federal Coordinated Health Care Office are as follows:

(A) Providing States, specialized MA plans for special needs individuals (as defined in section 1859(b)(6) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)), physicians and other relevant entities or individuals with the education and tools necessary for developing programs that align benefits under the Medicare and Medicaid programs for dual eligible individuals.

(B) Working with the Director of the Congressional Budget Office and the Director of the Office of Management and Budget, and in consultation with the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission, to, not later than January 1, 2011, establish dynamic scoring for benefits for dual eligible individuals to account for total spending and savings for comparable risk groups under the Medicare program.

(C) Supporting State efforts to coordinate and align acute care and long-term care services for dual eligible individuals with other items and services furnished under the Medicare program.

(D) Providing support for coordination of contracting and oversight by States and the Centers for Medicare & Medicaid Services with respect to the integration of the Medicare and Medicaid programs in a manner that is supportive of the goals described in paragraph (3).

(5) REPORT.—The Secretary shall, as part of the budget transmitted under section 1105(a) of title 31, United States Code, submit to Congress an annual report containing recommendations for legislation that would improve care coordination and benefits for dual eligible individuals.

(b) ADDITION OF MEDICAID REPRESENTATIVES TO MEDICARE PAYMENT ADVISORY COMMISSION AND CONSULTATION WITH MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.—

(1) ADDITION OF MEDICAID REPRESENTATIVE TO MEDICARE PAYMENT ADVISORY COMMISSION.—Section 1805(c)(2)(B) of the Social Security Act (42 U.S.C. 1395b–6(c)(2)(B)) is amended by adding at the end the following sentence: ''Such membership shall also include at least 2 individuals who are nationally recognized for their expertise in financing, benefits, and provider payment policies under the program under title XIX.''.

(2) CONSULTATION WITH MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.—Section 1805(b) of the Social Security Act (42 U.S.C. 1395b–6(b)) is amended by adding at the end the following new paragraph:

''(9) CONSULTATION WITH MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.—In carrying out the duties of the Commission under this subsection, the Commission shall consult with the Medicaid and CHIP Payment and Access Commission established under section 506 of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3) on an ongoing basis.''.

(c) MACPAC FUNDING AND TECHNICAL AMENDMENTS.—

(1) FUNDING.—Section 1900(f) of the Social Security Act (42 U.S.C. 1396(f)) is amended—

(A) in the subsection heading, by striking ''AUTHORIZATION OF APPROPRIATIONS'' and inserting ''FUNDING'';

(B) in paragraph (1), by inserting ''(other than for fiscal year 2009)'' before ''in the same manner''; and

(C) by striking paragraph (2) and inserting the following:

''(2) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to MACPAC $11,403,000 for fiscal year 2009 to carry out the provisions of this section.

''(3) AUTHORIZATION.—In addition to amounts made available under paragraph (2), there are authorized to be appropriated for fiscal years beginning with fiscal year 2010, such sums as may be necessary to carry out the provisions of this section.

''(4) AVAILABILITY.—Amounts made available under paragraphs (2) and (3) to carry out the provisions of this section shall remain available until expended.''.

(2) TECHNICAL AMENDMENTS.—Section 1900(b) of such Act (42 U.S.C. 1396) is amended—

(A) in paragraph (1)(D), by striking ''June 1'' and inserting ''June 15''; and

(B) by adding at the end the following:

''(10) CONSULTATION WITH MEDPAC.—

''(A) IN GENERAL.—MACPAC shall regularly consult with the Medicare Payment Advisory Commission (in this paragraph referred to as 'MedPAC') established under section 1805 in carrying out its duties under this section.

''(B) DATA SHARING.—MACPAC and MedPAC shall have unrestricted access to all deliberations, records, and nonproprietary data of the other such entity, respectively, immediately upon the request of the either such entity.''.

(d) RULE OF CONSTRUCTION.—Nothing in this section—

(1) requires mandatory integrated care under the Medicare or Medicaid programs under titles XVIII and XIX, respectively, of the Social Security Act;

(2) promotes enrollment in specialized MA plans for special needs individuals (as defined in section 1859(b)(6) of the Social Security Act (42 U.S.C. 1395w–28(b)(6));

(3) promotes the development of Medicaid managed care for dual eligible individuals; or

(4) prevents dual eligible individuals from electing to remain in the original Medicare fee-for-service option, or the right to make such election being protected.

SEC. 102. CREATING A MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION.

(a) MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION.—

(1) IN GENERAL.—Subpart 2 of part D of the Social Security Act is amended by inserting after section 1860D–11 (42 U.S.C. 1395w–111) the following new section:

''MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION

''SEC. 1860D–11A. (a) IN GENERAL.—Notwithstanding any other provision of this part, for each year (beginning with 2011), in addition to any plans offered under section 1860D–11, the Secretary shall offer one or more Medicare operated prescription drug plans (as defined in subsection (b)) with a service area that consists of the entire United States and shall enter into negotiations in accordance with section 1860D–11A(i) with pharmaceutical manufacturers to reduce the purchase cost of covered part D drugs for eligible part D individuals who enroll in such a plan.

''(b) MEDICARE OPERATED PRESCRIPTION DRUG PLAN DEFINED.—For purposes of this part, the term 'Medicare operated prescription drug plan' means a prescription drug plan that offers qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A).

''(c) MONTHLY BENEFICIARY PREMIUM.—

''(1) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The monthly beneficiary premium for qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A) to be charged under a Medicare operated prescription drug plan shall be uniform nationally. Such premium for months in 2010 and each succeeding year shall be equal to the product of—

''(A) the beneficiary premium percentage (as specified in section 1860D–13(a)(3)); and

''(B) the average monthly per capita actuarial cost of offering the Medicare operated prescription drug plan for the year involved, including administrative expenses.

''(2) PREMIUM SUBSIDY FOR APPLICABLE SUBSIDY ELIGIBLE INDIVIDUALS.—

''(A) FULL SUBSIDY ELIGIBLE INDIVIDUALS.—In the case of an applicable subsidy eligible individual described in paragraph (4)(A), the individual is entitled under this section to an income-related premium subsidy equal to 100 percent of the monthly beneficiary premium of the Medicare operated prescription drug plan.

''(B) OTHER SUBSIDY ELIGIBLE INDIVIDUALS.—In the case of an applicable subsidy eligible individual described in paragraph (4)(B), the individual is entitled under this section to an income-related premium subsidy determined on a linear sliding scale as follows:

''(i) One hundred percent of the amount described in subparagraph (A) for individuals with incomes at or below 135 percent of such level.

''(ii) Seventy-five percent of such amount for individuals with incomes above 135 percent of such level and at or below 140 percent of such level.

''(iii) Fifty percent of such amount for individuals with incomes above 140 percent of such level and at or below 145 percent of such level.

''(iv) Twenty-five percent of such amount for individuals with incomes above 145 percent of such level and below 150 percent of such level.

''(v) Zero percent of such amount for individuals with incomes at 150 percent of such level.

''(3) COST-SHARING FOR APPLICABLE SUBSIDY ELIGIBLE INDIVIDUALS.—

''(A) FULL-SUBSIDY ELIGIBLE INDIVIDUALS.—In the case of an applicable subsidy eligible individual described in paragraph (4)(A), the provisions of section 1860D–14(a)(1) shall apply, except the premium subsidy under paragraph (2)(A) shall be substituted for the premium subsidy under subparagraph (A) of such section 1860D–14(a)(1); and

''(B) OTHER SUBSIDY ELIGIBLE INDIVIDUALS.—In the case of an applicable subsidy eligible individual described in paragraph (4)(B), the provisions of section 1860D–14(a)(2) shall apply, except the premium subsidy under paragraph (2)(B) shall be substituted

for the premium subsidy under subparagraph (A) of such section 1860D–14(a)(2).

''(4) DEFINITION OF APPLICABLE SUBSIDY ELIGIBLE INDIVIDUALS.—For purposes of paragraphs (2) and (3), the term 'applicable subsidy eligible individual' means the following:

''(A) FULL-SUBSIDY ELIGIBLE INDIVIDUALS.—

''(i) INDIVIDUALS WITH INCOME BELOW 135 PERCENT OF POVERTY LINE.—Any individual who—

''(I) is enrolled in a Medicare operated prescription drug plan;

''(II) is determined to have income that is below 135 percent of the poverty line applicable to a family of the size involved; and

''(III) meets the resources requirement described in section 1860D–14(a)(3)(E), as amended by section 201 of the Medicare Prescription Drug Coverage Improvement Act.

''(ii) CERTAIN OTHER INDIVIDUALS.—Any individual who is enrolled in a Medicare operated prescription drug plan who—

''(I) is a full-benefit dual eligible individual (as defined in section 1935(c)(6));

''(II) receives benefits under the supplemental security income program under title XVI; or

''(III) is eligible for medical assistance under clause (i), (iii), or (iv) of section 1902(a)(10)(E).

''(B) OTHER SUBSIDY ELIGIBLE INDIVIDUALS.—Any individual who—

''(i) is not described in paragraph (1);

''(ii) is enrolled in a Medicare operated prescription drug plan;

''(iii) is determined to have income that is below 150 percent of the poverty line applicable to a family of the size involved; and

''(iv) meets the resources requirement described in section 1860D–14(a)(3)(E), as amended by section 201 of the Medicare Prescription Drug Coverage Improvement Act.

''(d) USE OF A FORMULARY AND FORMULARY INCENTIVES.—

''(1) USE OF A FORMULARY.—

''(A) IN GENERAL.—With respect to the operation of a Medicare operated prescription drug plan, the Secretary shall establish and apply a formulary (and may include formulary incentives described in paragraph (5)(C)(ii)) in accordance with this subsection in order to—

''(i) increase patient safety;

''(ii) increase appropriate use and reduce inappropriate use of drugs; and

''(iii) reward value.

''(B) DEFAULT INITIAL FORMULARY.—Until such time as the Secretary establishes and applies the initial formulary under paragraph (5), a Medicare operated prescription drug plan shall be required to include all drugs approved for safety and effectiveness as a prescription drug under the Federal Food, Drug, and Cosmetic Act that are covered part D drugs (and may include formulary incentives described in paragraph (5)(C)(ii)).

''(2) REQUIREMENTS FOR FORMULARIES.—The Secretary shall establish a formulary that meets the following requirements:

''(A) Except as provided in subparagraph (B), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an agreement with the Secretary under this section.

''(B) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication (as defined in section 1860D–2(e)(4)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

''(C) The Secretary permits coverage of a drug excluded from the formulary pursuant to a prior authorization program that is consistent with paragraph (3).

''(D) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established under paragraph (3) is not a formulary subject to the requirements of this paragraph.

''(3) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—The Secretary may require, with respect to drugs dispensed on or after July 1, 1991, the approval of the drug before its dispensing for any medically accepted indication (as defined in section 1860D–2(e)(4)) only if the system providing for such approval—

''(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

''(B) provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

''(4) OTHER PERMISSIBLE RESTRICTIONS.—The Secretary may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to improve patient safety, discourage waste, or address instances of fraud or abuse by individuals in any manner authorized under this Act.

''(5) DEVELOPMENT OF INITIAL FORMULARY.—

''(A) IN GENERAL.—In selecting covered part D drugs for inclusion in a formulary, the Secretary shall consider clinical benefit and price.

''(B) ROLE OF AHRQ.—The Director of the Agency for Healthcare Research and Quality shall be responsible for assessing the clinical benefit of covered part D drugs and making recommendations to the Secretary regarding which drugs should be included in the formulary. In conducting such assessments and making such recommendations, the Director shall—

''(i) consider safety concerns including those identified by the Federal Food and Drug Administration;

''(ii) use available data and evaluations, with priority given to randomized controlled trials, to examine clinical effectiveness, comparative effectiveness, safety, and enhanced compliance with a drug regimen;

''(iii) use the same classes of drugs developed by United States Pharmacopeia for this part;

''(iv) consider evaluations made by—

''(I) the Director under section 1013 of Medicare Prescription Drug, Improvement, and Modernization Act of 2003;

''(II) other Federal entities, such as the Secretary of Veterans Affairs; and

''(III) other private and public entities, such as the Drug Effectiveness Review Project and Medicaid programs; and

''(v) recommend to the Secretary—

''(I) those drugs in a class that provide a greater clinical benefit, including fewer safety concerns or less risk of side-effects, than another drug in the same class that should be included in the formulary;

''(II) those drugs in a class that provide less clinical benefit, including greater safety concerns or a greater risk of side-effects, than another drug in the same class that should be excluded from the formulary; and

''(III) drugs in a class with same or similar clinical benefit for which it would be appropriate for the Secretary to competitively bid (or negotiate) for placement on the formulary.

''(C) CONSIDERATION OF AHRQ RECOMMENDATIONS.—

''(i) IN GENERAL.—Not later than January 1, 2011, the Secretary, after taking into consideration the recommendations under subparagraph (B)(v), shall establish a formulary, and formulary incentives, to encourage use of covered part D drugs that—

''(I) have a lower cost and provide a greater clinical benefit than other drugs;

''(II) have a lower cost than other drugs with same or similar clinical benefit; and

''(III) drugs that have the same cost but provide greater clinical benefit than other drugs.

''(ii) FORMULARY INCENTIVES.—The formulary incentives under clause (i) may be in the form of one or more of the following:

''(I) Tiered copayments.

''(II) Prior authorization.

''(III) Step therapy.

''(IV) Medication therapy management.

''(V) Generic drug substitution.

''(iii) FLEXIBILITY.—In applying such formulary incentives the Secretary may decide not to impose any cost-sharing for a covered part D drug for which—

''(I) the elimination of cost sharing would be expected to increase compliance with a drug regimen; and

''(II) compliance would be expected to produce savings under part A or B or both.

''(iv) DEVELOPMENT OF TRANSPARENT PROCESS TO EXPLAIN FORMULARY INCENTIVES.—Not later than January 1, 2011, the Secretary shall develop and implement a transparent process to identify and explain to beneficiaries formulary incentives under clause (i). Such process shall be designed to assist beneficiaries in understanding how prior authorization requests and other formulary incentives will be evaluated.

''(6) LIMITATIONS ON FORMULARY.—In any formulary established under this subsection, the formulary may not be changed during a year, except—

''(A) to add a generic version of a covered part D drug that entered the market;

''(B) to remove such a drug for which a safety problem is found; and

''(C) to add a drug that the Secretary identifies as a drug which treats a condition for which there has not previously been a treatment option or for which a clear and significant benefit has been demonstrated over other covered part D drugs.

''(7) ADDING DRUGS TO THE INITIAL FORMULARY.—

''(A) USE OF ADVISORY COMMITTEE.—The Secretary shall establish and appoint an advisory committee (in this paragraph referred to as the 'advisory committee')—

''(i) to review petitions from drug manufacturers, health care provider organizations, patient groups, and other entities for inclusion of a drug in, or other changes to, such formulary; and

''(ii) to recommend any changes to the formulary established under this subsection.

''(B) COMPOSITION.—The advisory committee shall be composed of 9 members and shall include representatives of physicians, pharmacists, and consumers and others with expertise in evaluating prescription drugs. The Secretary shall select members based on their knowledge of pharmaceuticals and the Medicare and Medicaid populations. Members shall be deemed to be special Government employees for purposes of applying the conflict of interest provisions under section 208 of title 18, United States Code, and no waiver of such provisions for such a member shall be permitted.

''(C) CONSULTATION.—The advisory committee shall consult, as necessary, with physicians who are specialists in treating the disease for which a drug is being considered.

''(D) REQUEST FOR STUDIES.—The advisory committee may request the Agency for Healthcare Research and Quality or an academic or research institution to study and make a report on a petition described in subparagraph (A)(ii) in order to assess—

''(i) clinical effectiveness;

''(ii) comparative effectiveness;

''(iii) safety; and

''(iv) enhanced compliance with a drug regimen.

''(E) RECOMMENDATIONS.—The advisory committee shall make recommendations to the Secretary regarding—

''(i) whether a covered part D drug is found to provide a greater clinical benefit, including fewer safety concerns or less risk of side-effects, than another drug in the same class that is currently included in the formulary and should be included in the formulary;

''(ii) whether a covered part D drug is found to provide less clinical benefit, including greater safety concerns or a greater risk of side-effects, than another drug in the same class that is currently included in the formulary and should not be included in the formulary; and

''(iii) whether a covered part D drug has the same or similar clinical benefit to a drug in the same class that is currently included in the formulary and whether the drug should be included in the formulary.

''(F) LIMITATIONS ON REVIEW OF MANUFACTURER PETITIONS.—The advisory committee shall not review a petition of a drug manufacturer under subparagraph (A)(ii) with respect to a covered part D drug unless the petition is accompanied by the following:

''(i) Raw data from clinical trials on the safety and effectiveness of the drug.

''(ii) Any data from clinical trials conducted using active controls on the drug or drugs that are the current standard of care.

''(iii) Any available data on comparative effectiveness of the drug.

''(iv) Any other information the Secretary requires for the advisory committee to complete its review.

''(G) RESPONSE TO RECOMMENDATIONS.—The Secretary shall review the recommendations of the advisory committee and if the Secretary accepts such recommendations the Secretary shall modify the formulary established under this subsection accordingly. Nothing in this section shall preclude the Secretary from adding to the formulary a drug for which the Director of the Agency for Healthcare Research and Quality or the advisory committee has not made a recommendation.

''(H) NOTICE OF CHANGES.—The Secretary shall provide timely notice to beneficiaries and health professionals about changes to the formulary or formulary incentives.

''(I) STABILITY OF BENEFIT.—Once a covered part D drug has been added to the formulary established under this subsection, the drug may not be removed from the formulary for at least a 3-year period, unless the Secretary determines there are safety or efficacy concerns with respect to the drug.

''(8) NON-EXCLUDABLE DRUGS.—The following drugs or classes of drugs shall not be excluded from the default initial formulary (as described in paragraph (1)(B)) or the initial formulary established by the Secretary (as described in paragraph (5)):

''(A) Barbiturates.

''(B) Benzodiazepines.

''(e) INFORMING BENEFICIARIES.—

''(1) IN GENERAL.—The Secretary shall take steps to inform beneficiaries about the availability of a Medicare operated prescription drug plan or plans including providing information in the annual handbook distributed to all beneficiaries and adding information to the official public Medicare website related to prescription drug coverage available through this part.

''(2) SOLE RESPONSIBILITY FOR MARKETING BY THE SECRETARY.—

''(A) IN GENERAL.—The Secretary shall have sole responsibility for marketing Medicare operated prescription drug plans.

''(B) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as are necessary to carry out such marketing.

''(f) APPLICATION OF ALL OTHER REQUIREMENTS FOR PRESCRIPTION DRUG PLANS.—Except as specifically provided in this section, any Medicare operated drug plan shall meet the same requirements as apply to any other prescription drug plan, including the requirements of section 1860D–4(b)(1) relating to assuring pharmacy access.

''(g) AUTOMATIC ENROLLMENT.—The Secretary shall establish procedures to provide for the automatic enrollment of subsidy eligible individuals (as defined in section 1860D–14(a)(3)) in a Medicare operated prescription drug plan in the case where such individuals lose their current prescription drug coverage, become part D eligible individuals, or in instances where the amount of the monthly beneficiary premium under the prescription drug plan the individual is enrolled in is greater than the premium subsidy amount described in section 1860D–14(b).

''(h) RULE OF CONSTRUCTION REGARDING ELIGIBILITY FOR MEDICAL ASSISTANCE.—In no case may enrollment in a Medicare operated prescription drug plan affect the eligibility of an individual to receive medical assistance under a State plan under title XIX.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 1860D–3(a) of the Social Security Act (42 U.S.C. 1395w–103(a)) is amended by adding at the end the following new paragraph:

''(4) AVAILABILITY OF THE MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—A Medicare operated prescription drug plan (as defined in section 1860D–11A(c)) shall be offered nationally in accordance with section 1860D–11A.''.

(B)(i) Section 1860D–3 of the Social Security Act (42 U.S.C. 1395w–103) is amended by adding at the end the following new subsection:

''(c) PROVISIONS ONLY APPLICABLE IN 2006, 2007, 2008, AND 2009.—The provisions of this section shall only apply with respect to 2006, 2007, 2008, and 2009.''.

(C) Section 1860D–11(g) of such Act (42 U.S.C. 1395w–111(g)) is amended by adding at the end the following new paragraph:

''(8) NO AUTHORITY FOR FALLBACK PLANS AFTER 2009.—A fallback prescription drug plan shall not be available after December 31, 2009.''.

(D) Section 1860D–13(c)(3) of such Act (42 U.S.C. 1395w–113(c)(3)) is amended—

(i) in the heading, by inserting ''AND MEDICARE OPERATED PRESCRIPTION DRUG PLANS'' after ''FALLBACK PLANS''; and

(ii) by inserting ''or a Medicare operated prescription drug plan'' after ''a fallback prescription drug plan''.

(E) Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(i) in paragraph (1), by striking ''In the'' and inserting ''Subject to section 1860D–11A(c)(2)(A), in the''; and

(ii) in paragraph (2), by striking ''In the'' and inserting ''Subject to section 1860D–11A(c)(2)(B), in the''.

(F) Section 1860D–16(b)(1) of such Act (42 U.S.C.1395w–116(b)(1)) is amended—

(i) in subparagraph (C), by striking ''and'' after the semicolon at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(G) by adding at the end the following new subparagraph:

''(E) payments for expenses incurred with respect to the operation of Medicare operated prescription drug plans under section 1860D–11A.''.

(H) Section 1860D–41(a) of such Act (42 U.S.C. 1395w–151(a)) is amended by adding at the end the following new paragraph:

''(19) MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—The term 'Medicare operated prescription drug plan' has the meaning given such term in section 1860D–11A(c).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

SEC. 103. ACCREDITATION REQUIREMENT FOR ALL SPECIALIZED MEDICARE ADVANTAGE PLANS AND REVISIONS RELATING TO SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.

(a) ACCREDITATION REQUIREMENT.—Section 1859(f) of the Social Security Act (42 U.S.C. 1395w–28(f)) is amended—

(1) in paragraphs (2)(B), (3)(B), and (4)(B), by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (6)(B)'' each place it appears; and

(2) by adding at the end the following new paragraph:

''(6) ACCREDITATION REQUIREMENT FOR ALL SNPS.—

''(A) ESTABLISHMENT OF ACCREDITATION PROGRAM.—Not later than January 1, 2011, the Secretary, acting through the Director of the Agency for Healthcare Research and Quality and the Administrator of the Centers for Medicare & Medicaid Services, shall enter into a contract with the National Committee for Quality Assurance under which the National Committee for Quality Assurance shall develop an accreditation (and reaccreditation) program for all specialized MA plans for special needs individuals (as defined in subsection (b)(6)), including specialized MA plans for special needs individuals described in subsection (b)(6)(B)(ii).

''(B) REQUIREMENT.—The requirement described in this subparagraph is that, effective for plan years beginning on or after January 1, 2012, a specialized MA plan for special needs individuals (as so defined) meet the accreditation standards developed by the National Committee for Quality Assurance under the contract under subparagraph (A).''.

(b) REVISIONS RELATING TO SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.—Section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended—

(1) in subsection (f)(3)—

(A) in subparagraph (D), in the first sentence, by inserting ''and the plan provides for the coordination of coverage for benefits under this title (including this part) and such medical assistance'' before the period at the end; and

(B) by adding at the end the following new subparagraph:

''(E) The plan meets the requirements described in subsection (g).''; and

(2) by adding at the end the following new subsection:

''(g) ADDITIONAL REQUIREMENTS FOR DUAL SNPS.—The following requirements are described in this subsection:

''(1) PROVISION OF INFORMATION.—The plan provides special needs individuals described

in subsection (b)(6)(B)(ii) up-front information about formularies and utilization management strategies under the plan as part of the information disclosed under section 1852(c)(1).

''(2) PREMIUM.—The premium under the plan does not exceed the premium subsidy amount described in section 1860D–14(b).

''(3) FORMULARY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the plan has a formulary that, based on the most recent data available, covers at least—

''(i) 95 percent of the 200 most commonly prescribed non-duplicative generic covered part D drugs for the population of individuals entitled to (or enrolled for) benefits under part A or enrolled under part B; and

''(ii) 95 percent of the 200 most commonly prescribed non-duplicative brand name covered part D drugs for such population.

''(B) INCLUSION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—The plan formulary shall include all covered part D drugs in the categories and classes identified by the Secretary under section 1860D–4(b)(3)(G)(i).

''(4) PHARMACY ACCESS.—The plan secures participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access by at least 90 percent of enrollees who are residing in long-term care facilities within the region.

''(5) OPERATION OF A DEDICATED CUSTOMER ASSISTANCE PHONE LINE.—The plan shall maintain a toll-free number or numbers for inquiries concerning the plan that is solely for the use of such individuals, the designated representatives of such individuals (including designated family members), advocates of such individuals, providers of services, and suppliers.

''(6) E-PRESCRIBING.—The plan adopts electronic prescribing for enrollees, in accordance with section 1860D–4(e), to coordinate care.

''(7) DEMONSTRATE EXPERIENCE AND EXPERTISE.—The plan demonstrates, to the satisfaction of the Secretary, with input from the States, sufficient experience and expertise in serving low-income, publicly insured, or previously uninsured populations.

''(8) REDUCING HEALTH DISPARITIES.—The plan has established and implemented systems and processes which have been approved by the Secretary to address and reduce health disparities based on race, ethnicity, gender, age, and socio-economic status.

''(9) PROFICIENCY IN CARE COORDINATION.—The plan demonstrates, to the satisfaction of the Secretary, proficiency in care coordination for the purpose of providing, or arranging for the provision of, services to assist individuals enrolled in the plan in obtaining access to other public and private benefits, including services to address non-medical and psycho-social needs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan year beginning on or after January 1, 2011.

SEC. 104. PROVIDING BETTER CARE COORDINATION FOR LOW-INCOME BENEFICIARIES IN MEDICARE PART D.

(a) CONTINUOUS UPDATING OF ELIGIBILITY AND ENROLLMENT DATA FOR DUAL ELIGIBLE INDIVIDUALS.—

(1) STATE REQUIREMENT.—Section 1935(a) of the Social Security Act (42 U.S.C. 1396u–5(a)) is amended by adding at the end the following new paragraph:

''(4) UPDATING OF ELIGIBILITY AND ENROLLMENT INFORMATION ON A ROLLING BASIS.—Beginning not later than October 1, 2011, the State shall update information with respect to the eligibility and enrollment of individuals receiving any kind of medical assistance under the State plan, including medical assistance for payment of Medicare cost-sharing described in section 1905(p)(3), in MA plans and prescription drug plans under parts C and D, respectively, of title XVIII (including eligibility determinations under paragraph (2) and screening and enrollment under paragraph (3)) not less frequently than on a weekly basis.''.

(2) SECRETARIAL REQUIREMENTS.—Section 1935(d) of the Social Security Act (42 U.S.C. 1396u–5(d)) is amended by adding at the end the following new paragraph:

''(3) UPDATING OF ELIGIBILITY AND ENROLLMENT INFORMATION ON A ROLLING BASIS.—The Secretary shall update information with respect to the eligibility and enrollment of individuals receiving any kind of medical assistance under this title, including medical assistance for payment of Medicare cost-sharing described in section 1905(p)(3), in MA plans and prescription drug plans under parts C and D, respectively, of title XVIII as it is received, but not less frequently than on a weekly basis.''.

(b) IDENTIFYING DUAL ELIGIBLE INDIVIDUALS IN DATA RECORDS.—

(1) IN GENERAL.—Section 1859 of the Social Security Act (42 U.S.C. 1305w–28), as amended by section 103, is amended by adding at the end the following new subsection:

''(h) IDENTIFYING DUAL ELIGIBLE INDIVIDUALS IN DATA RECORDS.—

''(1) IDENTIFICATION BY THE SECRETARY.—Beginning on January 1, 2010, the Secretary shall clearly identify all dual eligible individuals that are enrolled in MA plans and prescription drug plans for the current plan year and reflect the low-income subsidy status of such individuals for each plan year in every data record file maintained in the Medicare electronic database and every such file that is used to enroll or adjudicate claims for such individuals.

''(2) IDENTIFICATION BY MA PLANS AND PRESCRIPTION DRUG PLANS.—Beginning on January 1, 2010, each MA plan and prescription drug plan shall clearly identify all dual eligible individuals that are enrolled in the plan for the current plan year and reflect the low-income subsidy status of such individuals for the plan year in every data record file maintained by the plan that is used to enroll or adjudicate claims for such individuals under the plan.

''(3) REGULATIONS.—The Secretary shall establish regulations to carry out this subsection. Such regulations shall require that—

''(A) for each plan year and each dual eligible individual, the Secretary identify on the Medicare enrollment database dual eligible status that has been verified with a State or the District of Columbia;

''(B) for each plan year and each dual eligible individual, the Secretary identify on the Medicare enrollment database the low-income subsidy level of the individual; and

''(C) each data file that is necessary to ensure that such dual eligible status is transmitted to an MA plan or a prescription drug plan, at the time the Secretary certifies the enrollment of the dual eligible individual in the plan.

''(4) DEFINITION OF DUAL ELIGIBLE INDIVIDUAL.—The term 'dual eligible individual' means a special needs individual described in subsection (b)(6)(B)(ii).''.

(2) CONFORMING AMENDMENT.—Section 1860D–42 of the Social Security Act (42 U.S.C. 1395w–152) is amended by adding at the end the following new subsection:

''(c) IDENTIFYING DUAL ELIGIBLE INDIVIDUALS IN DATA RECORDS.—For provisions regarding the identification by prescription drug plans of dual eligible individuals in data records, see section 1859(h).''.

(c) ASSURING CONTINUITY OF PRESCRIPTION DRUG COVERAGE FOR DUAL ELIGIBLES.—

(1) IN GENERAL.—Section 1935(d)(1) of the Social Security Act (42 U.S.C. 1396u–5(d)(1)) is amended—

(A) by inserting ''on and after the date described in subparagraph (B),'' after ''notwithstanding any other provision of this title,'';

(B) by striking ''In the case of'' and inserting the following:

''(A) IN GENERAL.—In the case of''; and

(C) by adding at the end the following:

''(B) DATE DESCRIBED.—For purposes of subparagraph (A), the date described in this subparagraph is the date on which the State confirms with a Medicare Advantage plan under part C of title XVIII or a prescription drug plan under part D of such title (including a Medicare operated prescription drug plan under section 1860D–11A), as applicable—

''(i) that the part D eligible individual (as so defined) who is described in subsection (c)(6)(A)(ii) is enrolled with such plan; and

''(ii) the cost-sharing and premiums applicable for the individual for such plan.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on January 1, 2011.

(d) COLLECTION AND SHARING OF DRUG UTILIZATION DATA AND FORMULARY INFORMATION FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Section 1860D–42 of the Social Security Act, as amended by subsection (b), is amended by adding at the end the following new subsection:

''(d) COLLECTION AND SHARING OF DRUG UTILIZATION DATA AND FORMULARY INFORMATION FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

''(1) PLAN REQUIREMENT.—A PDP sponsor of a prescription drug plan (including a Medicare operated prescription drug plan under section 1860D–11A) and an MA organization offering an MA–PD plan shall submit to the Secretary such information regarding the drug utilization of enrollees in such plans who are full-benefit dual eligible individuals (as defined in section 1935(c)(6)) and any formularies under the plans such individuals are enrolled in as the Secretary determines appropriate to carry out paragraph (2). Such information shall be submitted—

''(A) on a rolling basis (as determined appropriate by the Secretary); and

''(B) using a single, uniform reporting process.

''(2) COLLECTION AND SHARING OF DATA.—The Secretary shall collect data on the drug utilization of full-benefit dual eligible individuals (as so defined) and on any formularies under the plans such individuals are enrolled in. The Secretary shall share such data with the States and the District of Columbia on as close to a real-time basis as possible.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2010.

SEC. 105. IMPROVING TRANSITION OF NEW DUAL ELIGIBLE INDIVIDUALS TO MEDICARE PRESCRIPTION DRUG COVERAGE AND PRESUMPTIVE ELIGIBILITY FOR LOW-INCOME SUBSIDIES.

(a) UPDATING THE POINT OF SALE FACILITATED ENROLLMENT PROCESS.—

(1) PROVIDING BETTER INITIAL PROTECTION FOR DUAL ELIGIBLE INDIVIDUALS.—Beginning January 1, 2011, each contractor under the Point of Sale Facilitated Enrollment process of the Department of Health and Human Services shall enroll full-benefit dual eligible individuals (as defined in section 1935(c)(6)) into a Medicare operated prescription drug plan under section 1860D–11A of the Social Security Act, as added by section 102.

(2) COMPETITIVE BIDDING OF POINT OF SALE CONTRACT.—The Secretary of Health and Human Services shall establish procedures to ensure that each contract entered into under such process on or after January 1, 2010, under the Medicare program under title XVIII of the Social Security Act is rebid every 3 years through a competitive bidding process.

(3) REQUIRING BETTER EDUCATION ABOUT POINT OF SALE FACILITATED ENROLLMENT PROCESS.—Not later than January 1, 2010, the Secretary of Health and Human Services shall have a comprehensive plan in place for proactively educating beneficiaries under the Medicare prescription drug program under part D of title XVIII of the Social Security Act, pharmacists, skilled nursing facilities (as defined in section 1819(a) of such Act (42 U.S.C. 1395i–3(a)), nursing facilities (as defined in section 1919(a) of such Act (42 U.S.C. 1396r(a)), counselors under State health insurance assistance programs (SHIPs), and other advocacy organizations (including disability organizations) about the Point of Sale Facilitated Enrollment process. Under such plan—

(A) information about the Point of Sale Facilitated Enrollment process shall be included in all mailers to the entities and individuals described in the preceding sentence prior to the annual, coordinated election period described in section 1851(e)(3) of the Social Security Act (42 U.S.C. 1395w–21(e)(3)); and

(B) a description of such process and other relevant information shall be prominently displayed on the Medicare Internet website throughout the year.

(4) MANDATORY USE OF POINT OF SALE FACILITATED ENROLLMENT PROCESS.—Section 1860D–4(b)(1) of the Social Security Act (42 U.S.C. 1395w–104(b)(1)) is amended by adding at the end the following new subparagraph:

''(F) MANDATORY USE OF POINT OF SALE FACILITATED ENROLLMENT PROCESS.—Notwithstanding any other provision of law, beginning January 1, 2011, the terms and conditions under subparagraph (A) shall require participating pharmacies to use the Point of Sale Facilitated Enrollment process of the Department of Health and Human Services.''.

(b) PRESUMPTIVE ELIGIBILITY AND MANDATORY TRANSITION PERIOD FOR SUBSIDY ELIGIBLE INDIVIDUALS.—Section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–104) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

''(d) PRESUMPTIVE ELIGIBILITY AND MANDATORY TRANSITION PERIOD.—

''(1) PRESUMPTIVE ELIGIBILITY.—An individual shall be presumed to be a subsidy eligible individual (as defined in section 1860D–14(a)(3)) if the individual presents at the pharmacy with—

''(A) reliable evidence of—

''(i) Medicaid enrollment, such as a Medicaid card, recent history of Medicaid billing in the pharmacy patient profile, a copy of a current Medicaid award letter, or confirmation from a Medicaid enrollment database; or

''(ii) eligibility for an income-related subsidy under section 1860D–14, such as a low-income subsidy notice from the Secretary or the Commissioner of Social Security, or confirmation from a Social Security enrollment database; and

''(B) reliable evidence of Medicare enrollment, such as a Medicare identification card, a Medicare enrollment approval letter, a Medicare Summary Notice, or confirmation from an official Medicare hotline or Medicare database.

''(2) MAKING SUBSIDY ELIGIBLE INDIVIDUALS WHOLE.—

''(A) IN GENERAL.—In the case of a subsidy eligible individual (as so defined) who, between November 15, 2005 and December 31, 2009, has wrongly been forced to pay higher co-payments, premiums, and deductibles than those applicable under this part and part C for such individual, the subsidy eligible individual shall be eligible for compensation under the program under this title.

''(B) ESTABLISHMENT OF PROCESS FOR REFUND OF AMOUNT INCORRECTLY PAID.—The Secretary shall establish a process under which—

''(i) prescription drug plans and MA–PD plans are billed for copayments and deductibles inappropriately charged to subsidy eligible individuals during retroactive coverage periods;

''(ii) the amounts incorrectly paid by the subsidy eligible individual as a result of those inappropriate charges are refunded directly to the individual, either through a rebate on future payments of premiums under part B or through a direct payment to the individual; and

''(iii) prescription drug plans and MA–PD plans are required to provide detailed accounting to the Secretary of the basis for any rebate or payment to a subsidy eligible individual under this subparagraph, including the applicable period of retroactive coverage for the subsidy eligible individual and whether the rebate or credit is with respect to an inappropriately charged copayment or deductible,

''(C) NOTIFICATION.—Subsidy eligible individuals shall be notified of the requirements of this subsection in their 2010 plan year materials.

''(D) NO EFFECT ON ELIGIBILITY FOR OTHER BENEFITS.—Amounts refunded to a subsidy eligible individual under this subsection shall be disregarded for purposes of determining or continuing the beneficiary's eligibility for receipt of benefits under any other Federal, State, or locally funded assistance program, including benefits paid under titles II, XVI, XVIII, XIX, or XXI.''.

SEC. 106. REQUIRED INFORMATION ON TRANSITION FROM SKILLED NURSING FACILITIES AND NURSING FACILITIES TO PART D PLANS.

(a) SKILLED NURSING FACILITIES.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following new paragraph:

''(9) INFORMATION ON TRANSITION TO PRESCRIPTION DRUG COVERAGE.—A skilled nursing facility must provide information to residents and the families of residents on how to transition to prescription drug coverage under MA–PD plans under part C and prescription drug plans under part D upon discharge from the facility.''.

(b) NURSING FACILITIES.—Section 1919(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following new paragraph:

''(9) INFORMATION ON TRANSITIONING TO PRESCRIPTION DRUG COVERAGE.—A nursing facility must provide information to residents and the families of residents on how to transition to prescription drug coverage under MA–PD plans under part C and prescription drug plans under part D upon discharge from the facility.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 107. STREAMLINED PHARMACY COMPLIANCE PACKAGING.

(a) IN GENERAL.—Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w–104(b)(3) is amended by adding at the end the following new subparagraph:

''(G) STREAMLINED PHARMACY COMPLIANCE PACKAGING FOR DUAL ELIGIBLE INDIVIDUALS.—A PDP sponsor of a prescription drug plan shall streamline pharmacy compliance packaging for individuals enrolled in the plan who—

''(i) are entitled to medical assistance under a State plan under title XVIII; and

''(ii) reside in a nursing home.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs dispensed on or after January 1, 2010.

SEC. 108. LOWERING COVERED PART D DRUG PRICES ON BEHALF OF MEDICARE BENEFICIARIES.

(a) REPEAL OF PROHIBITION.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w-111) is amended by striking subsection (i) and inserting the following:

''(i) LOWERING COVERED PART D DRUG PRICES.—

''(1) IN GENERAL.—The Secretary shall reduce the purchase cost of covered part D drugs by implementing 2 or more of the following strategies on an annual basis (beginning with 2011):

''(A) Negotiating directly with pharmaceutical manufacturers for additional discounts, rebates, and other price concessions that may be made available to Medicare operated prescription drug plans under section 1860D–11A for covered part D drugs.

''(B) Entering into rebate agreements with manufacturers to provide to the Secretary a rebate for any covered outpatient drug of a manufacturer dispensed during a rebate period specified in the agreement to a subsidy eligible individual described (or treated as described) in section 1860D–14(a)(1)) for which payment was made by a PDP sponsor under part D of title XVIII or an MA organization under part C of such title for such period in an amount determined in the same manner as the rebate amount for such drug would have been determined under subsection (c) of section 1927 if the dispensing of the drug to such individual was paid for by a State and subject to a rebate agreement entered into under such section (and allocating any such rebates received among the prescription drug plans of such PDP sponsors and MA–PD plans offered by such organizations based on the enrollment of such individuals in such plans).

''(C) In consultation with the Director of the Agency for Healthcare Research and Quality, using data from relevant and unbiased studies on the comparative clinical effectiveness of covered part D drugs to—

''(i) educate physicians and pharmacists; and

''(ii) provide information to PDP sponsors of prescription drug plans and MA organizations offering MA–PD plans for use in making decisions regarding plan formularies.

''(D) Instituting prescription drug prices negotiated under the Federal Supply Schedule of the General Services Administration for the reimbursement of covered part D drugs.

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the PDP sponsor of a prescription drug plan or an MA organization offering an MA-PD plan from obtaining a discount or reduction of the price for a covered part D drug below the price negotiated by the Secretary for a Medicare-operated plan under paragraph (1)(A).

''(3) ANNUAL REPORTS TO CONGRESS.—Not later than January 1, 2012, and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means, the Committee on Energy and Commerce, and the Committee on Oversight and Government Reform of the House of Representatives a report on the strategies implemented by the Secretary under paragraph (1) to achieve lower prices on covered part D drugs

for beneficiaries, including the prices of such covered part D drugs and any price concessions achieved by the Secretary as a result of such implementation.''.

SEC. 109. CORRECTION OF FLAWS IN DETERMINATION OF PHASED-DOWN STATE CONTRIBUTION FOR FEDERAL ASSUMPTION OF PRESCRIPTION DRUG COSTS FOR DUALLY ELIGIBLE INDIVIDUALS.

Section 1935(c) of the Social Security Act (42 U.S.C. 1396u–5(c)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking ''Each'' and inserting ''Subject to paragraph (7), each''; and

(2) by adding at the end the following new paragraph:

''(7) MODIFICATION OF DETERMINATION OF AMOUNT OF STATE CONTRIBUTION.—Not later than January 1, 2011, the Secretary of Health and Human Services (in this section referred to as the 'Secretary'), acting through the Director of the Federal Coordinated Health Care Office established under section 101 of the Medicare Prescription Drug Reform Act of 2009, shall promulgate regulations for modifying the factors used to determine the product under paragraph (1)(A) for each State and month that take into account the following with respect to each State:

''(A) Factoring into the determination of base year State Medicaid per capita expenditures for covered part D drugs for full-benefit dual eligible individuals under paragraph (3) all payments collected by a State under agreements under section 1927 for outpatient prescription drugs purchased in 2003 (not just for such payments that were collected by the State in 2003).

''(B) Pharmacy cost savings measures implemented by the State during the period that begins with 2003 and ends with 2006.

''(C) Substituting under paragraph (4) a State-specific growth factor in lieu of the national applicable growth factor for 2004 and succeeding years based on the annual percentage increase in the State's average per capita aggregate expenditures for covered outpatient drugs.

Such regulations shall include procedures for adjusting payments to States under section 1903(a) to take into account any overpayments or underpayments which the Secretary determines on the basis of such modifications were made by States under this subsection for 2004 and succeeding years.''.

SEC. 110. NO IMPACT ON ELIGIBILITY FOR BENEFITS UNDER OTHER PROGRAMS.

(a) IN GENERAL.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)), is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking ''subparagraph (F)'' and inserting ''subparagraphs (F) and (H)''; and

(2) by adding at the end the following new subparagraph:

''(H) NO IMPACT ON ELIGIBILITY FOR BENEFITS UNDER OTHER PROGRAMS.—The availability of premium and cost-sharing subsidies under this section shall not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or the amount of benefits under, any other Federal program.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 111. QUALITY INDICATORS FOR DUAL ELIGIBLE INDIVIDUALS.

Section 1154(a) of the Social Security Act (42 U.S.C. 1320c–3(a)) is amended by inserting after paragraph (11) the following new paragraph:

''(12) For all contracts entered into on or after August 1, 2011, the organization shall produce a statistically valid subsample of quality indicators applicable to dual eligible beneficiaries under titles XVIII and XIX.''.

TITLE II—ADDITIONAL MEDICARE AND MEDICAID IMPROVEMENTS

Subtitle A—Improving the Financial Assistance Available to Low-Income Medicare Beneficiaries

SEC. 201. IMPROVING ASSETS TESTS FOR MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM.

(a) APPLICATION OF HIGHEST LEVEL PERMITTED UNDER LIS.—

(1) TO FULL-PREMIUM SUBSIDY ELIGIBLE INDIVIDUALS.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(A) in paragraph (1), in the matter before subparagraph (A), by inserting ''(or, beginning with 2010, paragraph (3)(E))'' after ''paragraph (3)(D)''; and

(B) in paragraph (3)(A)(iii), by striking ''(D) or''.

(2) ANNUAL INCREASE IN LIS RESOURCE TEST.—Section 1860D–14(a)(3)(E)(i) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(E)(i)) is amended—

(A) by striking ''and'' at the end of subclause (I);

(B) in subclause (II), by inserting ''(before 2010)'' after ''subsequent year'';

(C) by striking the period at the end of subclause (II) and inserting a semicolon;

(D) by inserting after subclause (II) the following new subclauses:

''(III) for 2010, $27,500 (or $55,000 in the case of the combined value of the individual's assets or resources and the assets or resources of the individual's spouse); and

''(IV) for a subsequent year, the dollar amounts specified in this subclause (or subclause (III)) for the previous year increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year.''; and

(E) in the last sentence, by inserting ''or (IV)'' after ''subclause (II)''.

(3) APPLICATION OF LIS TEST UNDER MEDICARE SAVINGS PROGRAM.—Section 1905(p)(1)(C) of the Social Security Act (42 U.S.C. 1396d(p)(1)(C)) is amended by striking ''subparagraph (D)'' and all that follows through the period at the end and inserting the following: ''section 1860D–14(a)(3)(E) applicable to an individual or to the individual and the individual's spouse (as the case may be)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to eligibility determinations for income-related subsidies and Medicare cost-sharing furnished for periods beginning on or after January 1, 2010.

SEC. 202. ELIMINATING BARRIERS TO ENROLLMENT.

(a) ENCOURAGING APPLICATION OF PROCEDURES UNDER MEDICARE SAVINGS PROGRAM.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended by adding at the end the following new paragraph:

''(7) The Secretary shall take all reasonable steps to encourage States to provide for administrative verification of income and automatic reenrollment (as provided under subparagraphs (C)(iii) and (G) of section 1860D–14(a)(3) in the case of the low-income subsidy program).''.

(b) ENSURING THAT SSA AND STATES CAN ELECTRONICALLY PROCESS ALL LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.—Section 1860D–14(a)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(B)(i)) is amended by inserting after the first sentence the following new sentence: ''Not later than January 1, 2012, the State plan and the Commissioner shall have in place procedures to ensure the capacity to process all applications for determinations (including all applications that are not in English) electronically.''.

SEC. 203. ELIMINATION OF PART D COST-SHARING FOR CERTAIN NON-INSTITUTIONALIZED FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1860D–14(a)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(D)(i)) is amended—

(1) in the heading, by striking ''INSTITUTIONALIZED INDIVIDUALS.—In'' and inserting ''ELIMINATION OF COST-SHARING FOR CERTAIN FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

''(I) INSTITUTIONALIZED INDIVIDUALS.—In''; and

(2) by adding at the end the following new subclauses:

''(II) CERTAIN OTHER INDIVIDUALS.—In the case of an individual who is a full-benefit dual eligible individual and who is being provided medical assistance for home and community-based services under subsection (c), (d), (e), (i), or (j) of section 1915 or pursuant to section 1115, the elimination of any beneficiary coinsurance described in section 1860D–2(b)(2) (for all amounts through the total amount of expenditures at which benefits are available under section 1860D–2(b)(4)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs dispensed on or after January 1, 2010.

SEC. 204. EXEMPTION OF BALANCE IN ANY PENSION OR RETIREMENT PLAN FROM RESOURCES FOR DETERMINATION OF ELIGIBILITY FOR LOW-INCOME SUBSIDY.

(a) IN GENERAL.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)) is amended—

(1) in subparagraph (D), in the matter before clause (i), by striking ''life insurance policy exclusion provided under subparagraph (G)''and inserting ''additional exclusions provided under subparagraphs (G) and (H)'';

(2) in subparagraph (E)(i), in the matter before subclause (I), by striking ''life insurance policy exclusion provided under subparagraph (G)''and inserting ''additional exclusions provided under subparagraphs (G) and (H)''

(3) by adding at the end the following new subparagraph:

''(H) PENSION OR RETIREMENT PLAN EXCLUSION.—In determining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraphs (D) and (E), no balance in any pension or retirement plan shall be taken into account.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010, and shall apply to determinations of eligibility for months beginning with January 2010.

SEC. 205. COST-SHARING PROTECTIONS FOR LOW-INCOME SUBSIDY-ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(1) in paragraph (1)(D), by adding at the end the following new clause:

''(iv) OVERALL LIMITATION ON COST-SHARING.—In the case of all such individuals, a limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.''; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

''(F) OVERALL LIMITATION ON COST-SHARING.—A limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as of January 1, 2010.

Subtitle B—Other Improvements

SEC. 211. ENROLLMENT IMPROVEMENTS UNDER MEDICARE PARTS C AND D.

(a) SPECIAL ELECTION PERIOD DURING FIRST 60 DAYS OF ENROLLMENT IN A NEW PLAN.—

(1) IN GENERAL.—Section 1851(e)(4) of the Social Security Act (42 U.S.C. 1395w(e)(4)) is amended—

(A) in subparagraph (C), by striking ''or'' at the end;

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following new subparagraph:

''(D) the individual has been enrolled in such plan for fewer than 60 days; or''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that is 90 days after the date of enactment of this Act.

(b) EXTENSION OF THE ANNUAL, COORDINATED ELECTION PERIOD.—

(1) IN GENERAL.—Section 1851(e)(3)(B)(iv) of the Social Security Act (42 U.S.C. 1395w–1(e)(3)(B)(iv)) is amended by striking ''November 15'' and inserting ''October 1''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to annual, coordinated election periods beginning after the date of enactment of this Act.

(c) COORDINATION UNDER PARTS C AND D OF THE CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT PERIOD FOR THE FIRST 3 MONTHS OF THE YEAR.—

(1) IN GENERAL.—Section 1860D–1(b)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended by striking '', (C),''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2010.

SEC. 212. MEDICARE PLAN COMPLAINT SYSTEM.

(a) SYSTEM.—Section 1808 of the Social Security Act (42 U.S.C. 1395b–9) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (B)(iii), by striking ''adjustment; and'' and inserting ''adjustment);'';

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) develop and maintain the plan complaint system under subsection (d).''; and

(2) by adding at the end the following new subsection:

''(d) PLAN COMPLAINT SYSTEM.—

''(1) SYSTEM.—

''(A) IN GENERAL.—The Secretary shall develop and maintain a plan complaint system, (in this subsection referred to as the 'system') to—

''(i) collect and maintain information on plan complaints;

''(ii) track plan complaints from the date the complaint is logged into the system through the date the complaint is resolved; and

''(iii) otherwise improve the process for reporting plan complaints.

''(B) TIMEFRAME.—The Secretary shall have the system in place by not later than the date that is 6 months after the date of enactment of this subsection.

''(C) PLAN COMPLAINT DEFINED.—In this subsection, the term 'plan complaint' means a complaint that is received (including by telephone, letter, e-mail, or any other means) by the Secretary (including by a regional office, the Medicare Beneficiary Ombudsman, a subcontractor, a carrier, a fiscal intermediary, and a Medicare administrative contractor) from a Medicare Advantage eligible individual or a Part D eligible individual (or an individual representing such an individual) regarding a Medicare Advantage organization, a Medicare Advantage plan, a prescription drug plan sponsor, or a prescription drug plan, including, but not limited to, complaints relating to marketing, enrollment, covered drugs, premiums and cost-sharing, and plan customer service, grievances and appeals, participating providers. Such term also includes plan complaints that are received by the Secretary directly from the organization offering the plan relating to complaints by such individuals.

''(2) PROCESS CRITERIA.—In developing the system, the Secretary shall establish a process for reporting plan complaints. Such process shall meet the following criteria:

''(A) ACCESSIBLE.—The process is widely known and easy to use.

''(B) INVESTIGATIVE CAPACITY.—The process involves the appropriate experts, resources, and methods to assess complaints and determine whether they reflect an underlying pattern.

''(C) INTERVENTION AND FOLLOW-THROUGH.—The process triggers appropriate interventions and monitoring based on substantiated complaints.

''(D) QUALITY IMPROVEMENT ORIENTATION.—The process guides quality improvement.

''(E) RESPONSIVENESS.—The process routinely provides consistent, clear, and substantive responses to complaints.

''(F) TIMELINES.—Each process step is completed within a reasonable, established timeframe, and mechanisms exist to deal quickly with complaints of an emergency nature requiring immediate attention.

''(G) OBJECTIVE.—The process is unbiased, balancing the rights of each party.

''(H) PUBLIC ACCOUNTABILITY.—The process makes complaint information available to the public.

''(3) STANDARD DATA REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall establish standard data reporting requirements for reporting plan complaints under the system.

''(B) MODEL ELECTRONIC COMPLAINT FORM.—The Secretary shall develop a model electronic complaint form to be used for reporting plan complaints under the system. Such form shall be prominently displayed on the front page of the Medicare.gov Internet website and on the Internet website of the Medicare Beneficiary Ombudsman.

''(4) ALL COMPLAINTS REQUIRED TO BE LOGGED INTO THE SYSTEM.—Every plan complaint shall be logged into the system.

''(5) CASEWORK NOTATIONS.—The system shall provide for the inclusion of any casework notations throughout the complaint process on the record of a plan complaint.

''(6) MEDICARE BENEFICIARY OMBUDSMAN.—The Secretary shall carry out this subsection acting through the Medicare Beneficiary Ombudsman.''.

(b) FUNDING.—There are authorized to be appropriated such sums as may be necessary for the costs of carrying out section 1808(d) of the Social Security Act, as added by subsection (a).

(c) REPORTS.—

(1) SECRETARY.—

(A) ONGOING STUDY.—The Medicare Beneficiary Ombudsman (under subsection (c) of section 1808) of the Social Security Act (42 U.S.C. 1395b–9) shall conduct an ongoing study of the plan complaint system established under subsection (d) of such section (as added by subsection (a)), in this subsection referred to as the ''system''. Such study shall include an analysis of—

(i) the numbers and types of complaints reported under the system;

(ii) geographic variations in such complaints;

(iii) the timeliness of agency or plan responses to such complaints; and

(iv) the resolution of such complaints.

(B) QUARTERLY REPORTS.—Not later than 6 months after the implementation of the system, and every 3 months thereafter, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under subparagraph (A), together with recommendations for such legislation and administrative actions as the Secretary determines appropriate.

(2) INSPECTOR GENERAL.—The Inspector General of the Department of Health and Human Services shall conduct an evaluation of the system. Not later than 1 year after the implementation of the system, the Inspector General shall submit to Congress a report on such evaluation, together with recommendations for such legislation and administrative actions as the Inspector General determines appropriate.

SEC. 213. UNIFORM EXCEPTIONS AND APPEALS PROCESS.

(a) IN GENERAL.—Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w–104(b)(3), as amended by section 107, is amended by adding at the end the following new subparagraph:

''(G) USE OF SINGLE, UNIFORM EXCEPTIONS AND APPEALS PROCESS.—Notwithstanding any other provision of this part, a PDP sponsor of a prescription drug plan or an MA organization offering an MA-PD plan shall—

''(i) use a single, uniform exceptions and appeals process with respect to the determination of prescription drug coverage for an enrollee under the plan; and

''(ii) provide instant access to such process by enrollees through a toll-free telephone number and an Internet website.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to exceptions and appeals on or after January 1, 2011.

SEC. 214. PROHIBITION ON CONDITIONING MEDICAID ELIGIBILITY FOR INDIVIDUALS ENROLLED IN CERTAIN CREDITABLE PRESCRIPTION DRUG COVERAGE ON ENROLLMENT IN THE MEDICARE PART D DRUG PROGRAM.

(a) IN GENERAL.—Section 1935 of the Social Security Act (42 U.S.C. 1396v) is amended by adding at the end the following:

''(f) PROHIBITION ON CONDITIONING ELIGIBILITY FOR MEDICAL ASSISTANCE FOR INDIVIDUALS ENROLLED IN CERTAIN CREDITABLE PRESCRIPTION DRUG COVERAGE ON ENROLLMENT IN MEDICARE PRESCRIPTION DRUG BENEFIT.—

''(1) IN GENERAL.—A State shall not condition eligibility for medical assistance under the State plan for a part D eligible individual (as defined in section 1860D–1(a)(3)(A)) who is enrolled in creditable prescription drug coverage described in any of subparagraphs (C) through (H) of section 1860D–13(b)(4) on the individual's enrollment in a prescription drug plan under part D of title XVIII or an MA–PD plan under part C of such title.

''(2) COORDINATION OF BENEFITS WITH PART D FOR OTHER INDIVIDUALS.—Nothing in this subsection shall be construed as prohibiting a State from coordinating medical assistance under the State plan with benefits under part D of title XVIII for individuals not described in paragraph (1).''.

SEC. 215. OFFICE OF THE INSPECTOR GENERAL ANNUAL REPORT ON PART D FORMULARIES' INCLUSION OF DRUGS COMMONLY USED BY DUAL ELIGIBLES.

(a) ONGOING STUDY.—The Inspector General of the Department of Health and Human Services shall conduct an ongoing study of the extent to which formularies used by prescription drug plans and MA–PD plans under part D include drugs commonly used by full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1396u–5(c)(6)).

(b) ANNUAL REPORTS.—Not later than July 1 of each year (beginning with 2010), the Inspector General shall submit to Congress a report on the study conducted under paragraph (1), together with such recommendations as the Inspector General determines appropriate.

SEC. 216. HHS ONGOING STUDY AND ANNUAL REPORTS ON COVERAGE FOR DUAL ELIGIBLES.

(a) ONGOING STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct an ongoing study to track—

(A) how many of the new full benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1395u–5(c)(6))) enroll in a plan under part D of title XVIII of such Act and receive retroactive prescription drug coverage under the plan; and

(B) if such retroactive coverage is provided to such individuals—

(i) the number of months of coverage provided; and

(ii) the amount of reimbursements to individuals and to individuals that made payments for prescription drugs on their behalf for costs incurred during retroactive coverage periods.

(2) DATA TO USE.—In conducting the study with respect to the requirements under paragraph (1)(B), the Secretary shall examine prescription drug utilization data reported by Medicare part D plans.

(b) ANNUAL REPORTS ON ONGOING STUDY.—Not later than March 1 of each year (beginning with 2010), the Secretary shall submit a report to Congress containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(c) ANNUAL REPORTS ON SPENDING AND OUTCOMES.—Not later than January 1 of each year (beginning with 2013), the Secretary shall collect data and submit a report to Congress that includes the following information:

(1) Annual total expenditures (disaggregated by Federal and State expenditures) for dually eligible beneficiaries under title XVIII and under State plans and waivers under title XIX.

(2) An analysis of health outcomes for dually eligible beneficiaries, disaggregated by subtypes of beneficiaries (as determined by the Secretary).

(3) An analysis of the extent to which dually eligible beneficiaries are able to access benefits under title XVIII and under State plans and waivers under title XIX.

SEC. 217. AUTHORITY TO OBTAIN INFORMATION.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''AUTHORITY OF THE COMPTROLLER GENERAL TO OBTAIN INFORMATION

''SEC. 1899. No provision in this Act in effect on the date of enactment of this section or enacted after such date shall be construed to limit, amend, or supersede the authority of the Comptroller General of the United States to obtain agency records pursuant to section 716 of title 31, United States Code, including any information obtained by, or disclosed to, the Secretary under part C or D of this title, except to the extent that such provision expressly and specifically refers to this section and provides for such limitation, amendment, or supersession.''.

By Mr. DORGAN (for himself, Mr. JOHANNS, Mr. BAUCUS, Mr. JOHNSON, Mr. THUNE, Mr. TESTER, and Mr. UDALL of New Mexico):

S. 1635. A bill to establish an Indian Youth telemental health demonstration project, to enhance the provision of mental health care services to Indian youth, to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns, and for other purposes; to the Committee on Indian Affairs.

Mr. DORGAN. Mr. President, today I introduced a bill entitled 7th Generation Promise: Indian Youth Suicide Prevention Act, to address the crisis of youth suicide in Indian Country. I introduce this legislation on behalf of myself and Senators JOHANNS, JOHNSON, UDALL of New Mexico, BAUCUS, and TESTER, in hopes that it will help provide prevention and intervention services to Native American youth.

Over the past 25 years, youth suicides in Native American communities have reached epidemic levels. Suicide ranks as the second leading cause of death for Native American youth ages 15 to 35—a rate 3.5 times higher than the national average. In fact, adolescent Native American males have the highest suicide rate of any population group in the United States.

Over the years, the Indian Affairs Committee, which I chair, has held a series of hearings on the issue of Indian youth suicide. This past February, the Committee explored the progress made in youth suicide prevention in Indian Country. We heard from agencies and organizations, such as the Indian Health Service and the Substance Abuse and Mental Health Services Administration, SAMHSA, who provide worthy prevention and emergency response services.

During the February hearing, we also heard from a courageous 16-year-old young woman named Dana Lee Jetty who testified about the loss of her 14-year-old sister, Jami Rose Jetty. Her story illustrates the continued need for suicide prevention.

In November 2008, Dana Lee found her beautiful little sister, Jami Rose, hanging in her bedroom, on the Spirit Lake Reservation in North Dakota. Dana and Jami's Mom had done all the right things—noticing Jami was troubled, they took her to the doctor at the Indian Health Service clinic. The doctors dismissed the mom's concern and said Jami was just being a ''typical teenager.'' Dana told me that she believes her sister would be alive if there had been adequate mental health professionals to diagnose and treat Jami's depression. Jami Rose Jetty serves as a tragic example of the inadequate mental health services in Indian Country and why we need legislation like the one I introduced today.

This year, the Standing Rock Sioux Reservation, located in North Dakota and South Dakota, is experiencing epidemic levels of youth suicide. There have already been 10 suicides and an additional 53 attempted suicides. The majority of these suicides have been among tribal members under the age of 24. Clearly, we must do more for the mental health and suicide prevention in our Native American communities across the United States.

The bill I introduced includes three main sections to improve youth suicide prevention services in Indian Country: a youth telemental health demonstration project; language to streamline and improve the process by which Tribes apply for grants through SAMHSA; and encouragement of post-doctoral mental health intern programs in an effort to increase the availability of services in Indian Country.

The Indian Youth Telemental Health Demonstration Project Act has been introduced in previous Congresses. This project would authorize the Secretary of Health and Human Services to carry out a four-year demonstration project for the use of telemental health services in youth suicide prevention, intervention and treatment. Telemental health services refer to those health care services provided from a remote location through technological means. These types of services are especially important in remote, isolated communities like those in my home state of North Dakota where mental health professionals are scarce.

The bill also includes new language to enhance available mental health resources by addressing the many issues and barriers Tribes and tribal organizations face when applying for federal assistance through SAMHSA. For example, this provision requires SAMHSA to monitor the incidence of youth suicide in Indian Country, accept non-electronic grant applications from Tribes, give priority to disadvantaged tribal applicants with high rates of suicide, prohibit cost-sharing requirements, and prevent Tribes and tribal organizations from being required to apply through a state. In addition, this section requires states that apply for a SAMHSA grant using Tribal data to consult with Tribes and include them in any implemented programs.

Lastly, the bill includes encouragement for Tribes to use post-doctoral mental health professionals. Post-doctoral psychology and psychiatry interns are able to see patients and provide mental health services under the supervision of a certified mental health professional. The Veterans Administration is currently utilizing post-doctoral psychology intern programs, which have been successful in expanding the availability of mental health services to veterans. We need to promote innovative programs like this to increase the mental health services available in Indian Country.

The 7th Generation Promise in the bill's title is the Native American concept that we need to consider the impacts of our actions on our descendants seven generations in the future. Suicide is devastating our current generation of Native Americans, and we need to do something to protect them and

our Native Americans seven generations down the road.

I would like to thank Senator JOHANNS for working with me on this important piece of legislation. Health care, and especially mental health issues, remain a top priority for me as Chairman of the Indian Affairs Committee. I look forward to continuing this important work so that we may stop the high levels of youth suicide and other health disparities among Native Americans.

I would like to end by saying that one youth suicide is one tragedy too many. My hope is that passage of this bill will bring some aid to our Native American communities experiencing this crisis.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''7th Generation Promise: Indian Youth Suicide Prevention Act of 2009''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1)(A) the rate of suicide of American Indians and Alaska Natives is 1.9 times higher than the national average rate; and

(B) the rate of suicide of Indian and Alaska Native youth aged 15 through 24 is—

(i) 3.5 times the national average rate; and

(ii) the highest rate of any population group in the United States;

(2) many risk behaviors and contributing factors for suicide are more prevalent in Indian country than in other areas, including—

(A) history of previous suicide attempts;

(B) family history of suicide;

(C) history of depression or other mental illness;

(D) alcohol or drug abuse;

(E) health disparities;

(F) stressful life events and losses;

(G) easy access to lethal methods;

(H) exposure to the suicidal behavior of others;

(I) isolation; and

(J) incarceration;

(3) according to national data for 2005, suicide was the second-leading cause of death for Indians and Alaska Natives of both sexes aged 10 through 34;

(4)(A) the suicide rates of Indians and Alaska Natives aged 15 through 24, as compared to suicide rates of any other racial group, are—

(i) for males, up to 4 times greater; and

(ii) for females, up to 11 times greater; and

(B) data demonstrates that, over their lifetimes, females attempt suicide 2 to 3 times more often than males;

(5)(A) Indian tribes, especially Indian tribes located in the Great Plains, have experienced epidemic levels of suicide, up to 10 times the national average; and

(B) suicide clustering in Indian country affects entire tribal communities;

(6) death rates for Indians and Alaska Natives are statistically underestimated because many areas of Indian country lack the proper resources to identify and monitor the presence of disease;

(7)(A) the Indian Health Service experiences health professional shortages, with physician vacancy rates of approximately 17 percent, and nursing vacancy rates of approximately 18 percent, in 2007;

(B) 90 percent of all teens who die by suicide suffer from a diagnosable mental illness at time of death;

(C) more than ½ of teens who commit suicide have never been seen by a mental health provider; and

(D) ⅓ of health needs in Indian country relate to mental health;

(8) often, the lack of resources of Indian tribes and the remote nature of Indian reservations make it difficult to meet the requirements necessary to access Federal assistance, including grants;

(9) the Substance Abuse and Mental Health Services Administration and the Service have established specific initiatives to combat youth suicide in Indian country and among Indians and Alaska Natives throughout the United States, including the National Suicide Prevention Initiative of the Service, which has worked with Service, tribal, and urban Indian health programs since 2003;

(10) the National Strategy for Suicide Prevention was established in 2001 through a Department of Health and Human Services collaboration among—

(A) the Substance Abuse and Mental Health Services Administration;

(B) the Service;

(C) the Centers for Disease Control and Prevention;

(D) the National Institutes of Health; and

(E) the Health Resources and Services Administration; and

(11) the Service and other agencies of the Department of Health and Human Services use information technology and other programs to address the suicide prevention and mental health needs of Indians and Alaska Natives.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize the Secretary to carry out a demonstration project to test the use of telemental health services in suicide prevention, intervention, and treatment of Indian youth, including through—

(A) the use of psychotherapy, psychiatric assessments, diagnostic interviews, therapies for mental health conditions predisposing to suicide, and alcohol and substance abuse treatment;

(B) the provision of clinical expertise to, consultation services with, and medical advice and training for frontline health care providers working with Indian youth;

(C) training and related support for community leaders, family members, and health and education workers who work with Indian youth;

(D) the development of culturally relevant educational materials on suicide; and

(E) data collection and reporting;

(2) to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns; and

(3) to enhance the provision of mental health care services to Indian youth through existing grant programs of the Substance Abuse and Mental Health Services Administration.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATION.—The term ''Administration'' means the Substance Abuse and Mental Health Services Administration.

(2) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the Indian youth telemental health demonstration project authorized under section 4(a).

(3) INDIAN.—The term ''Indian'' means any individual who is—

(A) a member of an Indian tribe; or

(B) eligible for health services under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(4) INDIAN COUNTRY.—The term ''Indian country'' has the meaning given the term in section 1151 of title 18, United States Code.

(5) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(7) SERVICE.—The term ''Service'' means the Indian Health Service.

(8) TELEMENTAL HEALTH.—The term ''telemental health'' means the use of electronic information and telecommunications technologies to support long-distance mental health care, patient and professional-related education, public health, and health administration.

(9) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary, acting through the Service, is authorized to carry out a demonstration project to award grants for the provision of telemental health services to Indian youth who—

(A) have expressed suicidal ideas;

(B) have attempted suicide; or

(C) have mental health conditions that increase or could increase the risk of suicide.

(2) ELIGIBILITY FOR GRANTS.—Grants under paragraph (1) shall be awarded to Indian tribes and tribal organizations that operate 1 or more facilities—

(A) located in an area with documented disproportionately high rates of suicide;

(B) reporting active clinical telehealth capabilities; or

(C) offering school-based telemental health services to Indian youth.

(3) GRANT PERIOD.—The Secretary shall award grants under this section for a period of up to 4 years.

(4) MAXIMUM NUMBER OF GRANTS.—Not more than 5 grants shall be provided under paragraph (1), with priority consideration given to Indian tribes and tribal organizations that—

(A) serve a particular community or geographic area in which there is a demonstrated need to address Indian youth suicide;

(B) enter into collaborative partnerships with Service or other tribal health programs or facilities to provide services under this demonstration project;

(C) serve an isolated community or geographic area that has limited or no access to behavioral health services; or

(D) operate a detention facility at which Indian youth are detained.

(5) CONSULTATION WITH ADMINISTRATION.—In developing and carrying out the demonstration project under this subsection, the Secretary shall consult with the Administration as the Federal agency focused on mental health issues, including suicide.

(b) USE OF FUNDS.—

(1) IN GENERAL.—An Indian tribe or tribal organization shall use a grant received under subsection (a) for the following purposes:

(A) To provide telemental health services to Indian youth, including the provision of—

(i) psychotherapy;

(ii) psychiatric assessments and diagnostic interviews, therapies for mental health conditions predisposing to suicide, and treatment; and

(iii) alcohol and substance abuse treatment.

(B) To provide clinician-interactive medical advice, guidance and training, assistance in diagnosis and interpretation, crisis counseling and intervention, and related assistance to Service or tribal clinicians and health services providers working with youth being served under the demonstration project.

(C) To assist, educate, and train community leaders, health education professionals and paraprofessionals, tribal outreach workers, and family members who work with the youth receiving telemental health services under the demonstration project, including with identification of suicidal tendencies, crisis intervention and suicide prevention, emergency skill development, and building and expanding networks among those individuals and with State and local health services providers.

(D) To develop and distribute culturally appropriate community educational materials regarding—

(i) suicide prevention;

(ii) suicide education;

(iii) suicide screening;

(iv) suicide intervention; and

(v) ways to mobilize communities with respect to the identification of risk factors for suicide.

(E) To conduct data collection and reporting relating to Indian youth suicide prevention efforts.

(2) TRADITIONAL HEALTH CARE PRACTICES.—In carrying out the purposes described in paragraph (1), an Indian tribe or tribal organization may use and promote the traditional health care practices of the Indian tribes of the youth to be served.

(c) APPLICATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), to be eligible to receive a grant under subsection (a), an Indian tribe or tribal organization shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the project that the Indian tribe or tribal organization will carry out using the funds provided under the grant;

(B) a description of the manner in which the project funded under the grant would—

(i) meet the telemental health care needs of the Indian youth population to be served by the project; or

(ii) improve the access of the Indian youth population to be served to suicide prevention and treatment services;

(C) evidence of support for the project from the local community to be served by the project;

(D) a description of how the families and leadership of the communities or populations to be served by the project would be involved in the development and ongoing operations of the project;

(E) a plan to involve the tribal community of the youth who are provided services by the project in planning and evaluating the mental health care and suicide prevention efforts provided, in order to ensure the integration of community, clinical, environmental, and cultural components of the treatment; and

(F) a plan for sustaining the project after Federal assistance for the demonstration project has terminated.

(2) EFFICIENCY OF GRANT APPLICATION PROCESS.—The Secretary shall carry out such measures as the Secretary determines to be necessary to maximize the time and workload efficiency of the process by which Indian tribes and tribal organizations apply for grants under paragraph (1).

(d) COLLABORATION.—The Secretary, acting through the Service, shall encourage Indian tribes and tribal organizations receiving grants under this section to collaborate to enable comparisons regarding best practices across projects.

(e) ANNUAL REPORT.—Each grant recipient shall submit to the Secretary an annual report that—

(1) describes the number of telemental health services provided; and

(2) includes any other information that the Secretary may require.

(f) REPORTS TO CONGRESS.—

(1) INITIAL REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date on which the first grant is awarded under this section, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and the Committee on Energy and Commerce of the House of Representatives a report that—

(i) describes each project funded by a grant under this section during the preceding 2-year period, including a description of the level of success achieved by the project; and

(ii) evaluates whether the demonstration project should be continued during the period beginning on the date of termination of funding for the demonstration project under subsection (g) and ending on the date on which the final report is submitted under paragraph (2).

(B) CONTINUATION OF DEMONSTRATION PROJECT.—On a determination by the Secretary under clause (ii) of subparagraph (A) that the demonstration project should be continued, the Secretary may carry out the demonstration project during the period described in that clause using such sums otherwise made available to the Secretary as the Secretary determines to be appropriate.

(2) FINAL REPORT.—Not later than 270 days after the date of termination of funding for the demonstration project under subsection (g), the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and the Committee on Energy and Commerce of the House of Representatives a final report that—

(A) describes the results of the projects funded by grants awarded under this section, including any data available that indicate the number of attempted suicides;

(B) evaluates the impact of the telemental health services funded by the grants in reducing the number of completed suicides among Indian youth;

(C) evaluates whether the demonstration project should be—

(i) expanded to provide more than 5 grants; and

(ii) designated as a permanent program; and

(D) evaluates the benefits of expanding the demonstration project to include urban Indian organizations.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2010 through 2013.

SEC. 5. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION GRANTS.

(a) GRANT APPLICATIONS.—

(1) EFFICIENCY OF GRANT APPLICATION PROCESS.—The Secretary, acting through the Administration, shall carry out such measures as the Secretary determines to be necessary to maximize the time and workload efficiency of the process by which Indian tribes and tribal organizations apply for grants under any program administered by the Administration, including by providing methods other than electronic methods of submitting applications for those grants, if necessary.

(2) PRIORITY FOR CERTAIN GRANTS.—

(A) IN GENERAL.—To fulfill the trust responsibility of the United States to Indian tribes, in awarding relevant grants pursuant to a program described in subparagraph (B), the Secretary shall give priority consideration to the applications of Indian tribes or tribal organizations, as applicable, that serve populations with documented high suicide rates, regardless of whether those Indian tribes or tribal organizations possess adequate personnel or infrastructure to fulfill all applicable requirements of the relevant program.

(B) DESCRIPTION OF GRANT PROGRAMS.—A grant program referred to in subparagraph (A) is a grant program—

(i) administered by the Administration to fund activities relating to mental health, suicide prevention, or suicide-related risk factors; and

(ii) under which an Indian tribe is an eligible recipient.

(3) CLARIFICATION REGARDING INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Notwithstanding any other provision of law, in applying for a grant under any program administered by the Administration, no Indian tribe or tribal organization shall be required to apply through a State or State agency.

(4) REQUIREMENTS FOR AFFECTED STATES.—

(A) DEFINITIONS.—In this paragraph:

(i) AFFECTED STATE.—The term ''affected State'' means a State—

(I) the boundaries of which include 1 or more Indian tribes; and

(II) the application for a grant under any program administered by the Administration of which includes statewide data.

(ii) INDIAN POPULATION.—The term ''Indian population'' means the total number of residents of an affected State who are members of 1 or more Indian tribes located within the affected State.

(B) REQUIREMENTS.—As a condition of receipt of a grant under any program administered by the Administration, each affected State shall—

(i) describe in the grant application—

(I) the Indian population of the affected State; and

(II) the contribution of that Indian population to the statewide data used by the affected State in the application; and

(ii) demonstrate to the satisfaction of the Secretary that—

(I) of the total amount of the grant, the affected State will allocate for use for the Indian population of the affected State an amount equal to the proportion that—

(aa) the Indian population of the affected State; bears to

(bb) the total population of the affected State; and

(II) the affected State will offer to enter into a partnership with each Indian tribe located within the affected State to carry out youth suicide prevention and treatment measures for members of the Indian tribe.

(C) REPORT.—Not later than 1 year after the date of receipt of a grant described in subparagraph (B), an affected State shall submit to the Secretary a report describing the measures carried out by the affected State to ensure compliance with the requirements of subparagraph (B)(ii).

(b) NO NON-FEDERAL SHARE REQUIREMENT.—Notwithstanding any other provision of law, no Indian tribe or tribal organization shall be required to provide a non-Federal share of the cost of any project or activity carried out using a grant provided under any program administered by the Administration.

(c) OUTREACH FOR RURAL AND ISOLATED INDIAN TRIBES.—Due to the rural, isolated nature of most Indian reservations and communities (especially those reservations and communities in the Great Plains region), the

Secretary shall conduct outreach activities, with a particular emphasis on the provision of telemental health services, to achieve the purposes of this Act with respect to Indian tribes located in rural, isolated areas.

(d) PROVISION OF OTHER ASSISTANCE.—

(1) IN GENERAL.—The Secretary, acting through the Administration, shall carry out such measures (including monitoring and the provision of required assistance) as the Secretary determines to be necessary to ensure the provision of adequate suicide prevention and mental health services to Indian tribes described in paragraph (2), regardless of whether those Indian tribes possess adequate personnel or infrastructure—

(A) to submit an application for a grant under any program administered by the Administration, including due to problems relating to access to the Internet or other electronic means that may have resulted in previous obstacles to submission of a grant application; or

(B) to fulfill all applicable requirements of the relevant program.

(2) DESCRIPTION OF INDIAN TRIBES.—An Indian tribe referred to in paragraph (1) is an Indian tribe—

(A) the members of which experience—

(i) a high rate of youth suicide;

(ii) low socioeconomic status; and

(iii) extreme health disparity;

(B) that is located in a remote and isolated area; and

(C) that lacks technology and communication infrastructure.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as the Secretary determines to be necessary to carry out this subsection.

(e) EARLY INTERVENTION AND ASSESSMENT SERVICES.—

(1) DEFINITION OF AFFECTED ENTITY.—In this subsection, the term ''affected entity'' means any entity—

(A) that receives a grant for suicide intervention, prevention, or treatment under a program administered by the Administration; and

(B) the population to be served by which includes Indian youth.

(2) REQUIREMENT.—The Secretary, acting through the Administration, shall ensure that each affected entity carrying out a youth suicide early intervention and prevention strategy described in section 520E(c)(1) of the Public Health Service Act (42 U.S.C. 290bb–36(c)(1)), or any other youth suicide-related early intervention and assessment activity, provides training or education to individuals who interact frequently with the Indian youth to be served by the affected entity (including parents, teachers, coaches, and mentors) on identifying warning signs of Indian youth who are at risk of committing suicide.

SEC. 6. USE OF PREDOCTORAL PSYCHOLOGY AND PSYCHIATRY INTERNS.

The Secretary shall carry out such activities as the Secretary determines to be necessary to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns—

(1) to increase the quantity of patients served by the Indian tribes, tribal organizations, and other mental health care providers; and

(2) for purposes of recruitment and retention.

By Mr. BINGAMAN (for himself, Ms. SNOWE, and Mrs. FEINSTEIN):

S. 1639. A bill to amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Expanding Industrial Energy Efficiency Incentives Act of 2009. I am pleased to be joined by my Finance Committee colleague, Senator SNOWE, in introducing the Act, which creates the first direct tax-based incentives for industrial energy efficiency. As such, the Act helps our industrial sector adopt advanced energy technologies and processes, enabling American industry to reduce fuel dependency, cut costs, reduce greenhouse gas emissions, add jobs, and enhance global competitiveness.

Even though the industrial sector represents 32 percent of our domestic energy consumption, there are currently no significant tax credits that directly promote industrial energy efficiency. But as a recent study by McKinsey & Company found, the industrial sector represents the largest potential for end-use energy efficiency in the U.S. and could save $47 billion per year on energy costs through efficiency improvements. The time to make this investment is now.

The act creates incentives in the three critical areas: water reuse, advanced motors, and CFC chillers. It also enhances incentives for combined heat and power systems. Energy efficiency organizations estimate that these incentives together will save over 92 terawatt hours of energy—the equivalent of four months' worth of total U.S. energy consumption.

First, the act adds a new investment tax credit for reuse, recycling, and/or efficiency measures related to process, sanitary, and cooling water, as well as for blowdown from cooling towers and steam systems used by utility-scale thermo-electric generators. The U.S. currently reuses only 6 percent of its water, and there is significant potential for gains in this area. The industrial sector, which is responsible for 45 percent of domestic freshwater withdrawals, is an ideal place to introduce transformative water reuse and water saving technologies. Approximately 3 percent of U.S. electricity use is for pumping, treating and transporting water. The ''water-watts connection'' is well-recognized. For instance, the California Energy Commission estimates that 95 percent of the energy savings of proposed energy-efficiency programs could be achieved through water-efficiency programs, at 58 percent of the cost. Water conservation is therefore a cost-effective way to achieve significant energy savings.

Second, the bill establishes a $120-per-horsepower tax credit for efficient motor systems with adjustable speed capability. On average, motors account for 65 percent of an industrial energy user's electricity use, a percentage that is even higher in certain industries, such as water supply, mining, and oil and gas extraction. In fact, industrial motors are expected to be responsible for 7 percent of total global carbon emissions by 2020.

New advances in power electronics and controls over the past five years have advanced the potential for new smart motor technologies to provide a significant energy savings potential if these new motors are placed widely into service. By reducing the initial design and added component costs, this new credit will accelerate the adoption of advanced motor technologies into higher volume production, helping to make the technology available economy-wide.

Third, the bill adds a new incentive for replacing CFC chillers. Large water-cooled chillers are the engines of air-conditioning systems for almost all large buildings. The bill establishes a credit of $150 per ton, plus an additional incentive of $100 for each ton downsized during replacement. The incentive extends only to pre-1993, post-1980 water-cooled chillers that use the refrigerants CFC–11 and CFC–12. While chillers that use CFC–11 and CFC–12 refrigerants have been banned for new installations because their refrigerant breakdown products attack the ozone layer, some 30,000 chillers that still use these refrigerants remain in both public and private facilities across the country. Replacing these obsolete systems would allow for the recovery of 37 million pounds of ozone depleting CFCs—or 64 million metric tons of carbon dioxide equivalents. Additionally, the improvement in new chiller efficiency that would be achieved by replacing these old systems would save 17.2 million metric tons of carbon dioxide from reduced electricity consumption—the equivalent of taking 3.3 million cars off the road.

While CFC chiller replacement is cost-effective over the long-term, the high up-front costs mean that many building owners do not make these investments. This moderate tax incentive improves the economics and reduces the up-front cost, substantially increasing the number of systems replaced.

Collaterally, but just as significantly, this bill is a jobs bill. For instance, if all CFC chillers are replaced, we expect that approximately 10,500 American jobs can be directly created or preserved in the manufacturing, removal and installation of new chillers. Additional jobs will be created by the engineering services required to take advantage of these incentives, adding up to a potential 60,000 jobs.

Finally, the bill improves the combined heat and power incentive, which was enacted last October as part of the tax extenders package. The package added a 10 percent investment tax credit for combined heat and power systems. The expansion of the combined heat and power tax credit would increase the credit's applicability from the first 15 megawatts to the first 25 megawatts of system capacity and remove the overall system size cap of 50 megawatts, allowing a greater number

of combined heat and power projects to be financially viable and move forward. A recent Department of Energy study estimates that ramping up total U.S. combined heat and power to account for twenty percent of electricity capacity, a percentage that is within our reach, would eliminate over sixty percent of the expected increase in carbon dioxide emissions from today to 2030—the equivalent of taking more than half of current passenger vehicles in the U.S. off the road.

Together, these four industrial energy efficiency incentives capture a large portion of the energy efficiency potential in the industrial sector. These incentives will catalyze the deployment of new technologies that will decrease carbon emissions and protect our natural resources, all while saving money on energy costs and creating jobs.

I look forward to working with Senator SNOWE to see these provisions enacted into law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Expanding Industrial Energy Efficiency Incentives Act of 2009''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.
Sec. 2. Modifications in credit for combined heat and power system property.
Sec. 3. Motor energy efficiency improvement tax credit.
Sec. 4. Credit for replacement of CFC refrigerant chiller.
Sec. 5. Qualifying efficient industrial process water use project credit.

SEC. 2. MODIFICATIONS IN CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) MODIFICATION OF CERTAIN CAPACITY LIMITATIONS.—Section 48(c)(3)(B) is amended—

(1) by striking ''15 megawatts'' in clause (ii) and inserting ''25 megawatts'',

(2) by striking ''20,000 horsepower'' in clause (ii) and inserting ''34,000 horsepower'', and

(3) by striking clause (iii).

(b) NONAPPLICATION OF CERTAIN RULES.—Section 48(c)(3)(C) is amended by adding at the end the following new clause:

''(iv) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clause (ii).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 3. MOTOR ENERGY EFFICIENCY IMPROVEMENT TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45R. MOTOR ENERGY EFFICIENCY IMPROVEMENT TAX CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the motor energy efficiency improvement tax credit determined under this section for the taxable year is an amount equal to $120 multiplied by the motor horsepower of an appliance, machine, or equipment—

''(1) manufactured in such taxable year by a manufacturer which incorporates an advanced motor system into a newly designed appliance, machine, or equipment or into a redesigned appliance, machine, or equipment which did not previously make use of the advanced motor system, or

''(2) placed back into service in such taxable year by an end user which upgrades an existing appliance, machine, or equipment with an advanced motor system.

For any advanced motor system with a total horsepower of less than 10, such motor energy efficiency improvement tax credit is an amount which bears the same ratio to $120 as 1 horsepower bears to such total horsepower.

''(b) ADVANCED MOTOR SYSTEM.—For purposes of this section, the term 'advanced motor system' means a motor and any required associated electronic control which—

''(1) offers variable or multiple speed operation, and

''(2) uses permanent magnet technology, electronically commutated motor technology, switched reluctance motor technology, or such other motor systems technologies as determined by the Secretary of Energy.

''(c) AGGREGATE PER TAXPAYER LIMITATION.—

''(1) IN GENERAL.—The amount of the credit determined under this section for any taxpayer for any taxable year shall not exceed the excess (if any) of $2,000,000 over the aggregate credits allowed under this section with respect to such taxpayer for all prior taxable years.

''(2) AGGREGATION RULES.—For purposes of this section, all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 taxpayer.

''(d) SPECIAL RULES.—

''(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(2) NO DOUBLE BENEFIT.—No other credit shall be allowable under this chapter for property with respect to which a credit is allowed under this section.

''(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

''(e) APPLICATION.—This section shall not apply to property manufactured or placed back into service before the date which is 6 months after the date of the enactment of this section or after December 31, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following new paragraph:

''(36) the motor energy efficiency improvement tax credit determined under section 45R.''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 45R(d)(1).''.

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45R. Motor energy efficiency improvement tax credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property manufactured or placed back into service after the date which is 6 months after the date of the enactment of this Act.

SEC. 4. CREDIT FOR REPLACEMENT OF CFC REFRIGERANT CHILLER.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45S. CFC CHILLER REPLACEMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the CFC chiller replacement credit determined under this section for the taxable year is an amount equal to—

''(1) $150 multiplied by the tonnage rating of a CFC chiller replaced with a new efficient chiller that is placed in service by the taxpayer during the taxable year, plus

''(2) if all chilled water distribution pumps connected to the new efficient chiller include variable frequency drives, $100 multiplied by any tonnage downsizing.

''(b) CFC CHILLER.—For purposes of this section, the term 'CFC chiller' includes property which—

''(1) was installed after 1980 and before 1993,

''(2) utilizes chlorofluorocarbon refrigerant, and

''(3) until replaced by a new efficient chiller, has remained in operation and utilized for cooling a commercial building.

''(c) NEW EFFICIENT CHILLER.—For purposes of this section, the term 'new efficient chiller' includes a water-cooled chiller which is certified to meet efficiency standards effective on January 1, 2010, as defined in table 6.8.1c in Addendum M to Standard 90.1–2007 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

''(d) TONNAGE DOWNSIZING.—For purposes of this section, the term 'tonnage downsizing' means the amount by which the tonnage rating of the CFC chiller exceeds the tonnage rating of the new efficient chiller.

''(e) ENERGY AUDIT.—As a condition of receiving a tax credit under this section, an energy audit shall be performed on the building prior to installation of the new efficient chiller, identifying cost-effective energy-saving measures, particularly measures that could contribute to chiller downsizing. The audit shall satisfy criteria that shall be issued by the Secretary of Energy.

''(f) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a CFC chiller replaced by a new efficient chiller the use of which is described in paragraph (3) or (4) of section 50(b), the person who sold such new efficient chiller to the entity shall be treated as the taxpayer that placed in service the new efficient chiller that replaced the CFC chiller, but only if such person clearly discloses to such entity in a document the amount of any credit allowable under subsection (a) and the

person certifies to the Secretary that the person reduced the price the entity paid for such new efficient chiller by the entire amount of such credit.

''(g) TERMINATION.—This section shall not apply to replacements made after December 31, 2012.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', plus'', and by adding at the end the following new paragraph:

''(37) the CFC chiller replacement credit determined under section 45S.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45S. CFC chiller replacement credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to replacements made after the date of the enactment of this Act.

SEC. 5. QUALIFYING EFFICIENT INDUSTRIAL PROCESS WATER USE PROJECT CREDIT.

(a) IN GENERAL.—Section 46 is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5), and by adding at the end the following new paragraph:

''(6) the qualifying efficient industrial process water use project credit.''.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48C the following new section:

''SEC. 48D. QUALIFYING EFFICIENT INDUSTRIAL PROCESS WATER USE PROJECT CREDIT.

''(a) IN GENERAL.—

''(1) ALLOWANCE OF CREDIT.—For purposes of section 46, the qualifying efficient industrial process water use project credit for any taxable year is an amount equal to the applicable percentage of the qualified investment for such taxable year with respect to any qualifying efficient industrial process water use project of the taxpayer.

''(2) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(A) 10 percent in the case of a qualifying efficient industrial process water use project which achieves a net energy consumption of less than 3,000 kilowatt hours per million gallons of water, and is placed in service before January 1, 2013,

''(B) 20 percent in the case of a qualifying efficient industrial process water use project which achieves a net energy consumption of less than 2,000 kilowatt hours per million gallons of water, and

''(C) 30 percent in the case of a qualifying efficient industrial process water use project which achieves a net energy consumption of less than 1,000 kilowatt hours per million gallons of water.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying efficient industrial process water use project.

''(2) EXCEPTIONS.—Such term shall not include any portion of the basis related to—

''(A) permitting,

''(B) land acquisition, or

''(C) infrastructure associated with sourcing or water discharge.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(4) SPECIAL RULE FOR SUBSIDIZED ENERGY FINANCING.—Rules similar to the rules of section 48(a)(4) (without regard to subparagraph (D) thereof) shall apply for purposes of this section.

''(5) LIMITATION.—The amount which is treated for all taxable years with respect to any qualifying efficient industrial process water use project with respect to any site shall not exceed $10,000,000.

''(c) DEFINITIONS.—

''(1) QUALIFYING EFFICIENT INDUSTRIAL PROCESS WATER USE PROJECT.—The term 'qualifying efficient industrial process water use project' means, with respect to any site, a project—

''(A) which replaces or modifies a system for the use of water or steam in the production of goods in the trade or business of manufacturing (including any system for the use of water derived from blow-down from cooling towers and steam systems in the generation of electric power at a site also used for the production of goods in the trade or business of manufacturing), and

''(B) which is designed to achieve—

''(i) a reduction of not less than 20 percent in water withdrawal and a reduction of not less than 10 percent of water discharge when compared to the existing water use at the site, or

''(ii) a reduction of not less than 10 percent in water withdrawal and a reduction of not less than 20 percent of water discharge when compared to the existing water use at the site, and

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property—

''(A) which is part of a qualifying efficient industrial process water use project and which is necessary for the reduction in withdrawals or discharge described in paragraph (1)(B),

''(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(3) NET ENERGY CONSUMPTION.—The term 'net energy consumption' means the energy consumed , both on-site and off-site, with respect to the water described in paragraph (1)(A). Net energy consumption shall be normalized per unit of industrial output and measured under rules and procedures established by the Secretary, in consultation with the Administrator of the Environmental Protection Agency.

''(4) WATER DISCHARGE.—The term 'water discharge' means all water leaving the site via permitted or unpermitted surface water discharges, discharges to publicly owned treatment works, and shallow- or deep-injection (whether on-site or off-site).

''(5) WATER WITHDRAWAL.—The term 'water withdrawal' means all water taken for use at the site from on-site ground and surface water sources together with any water supplied to the site by a public water system.

''(d) TERMINATION.—This section shall not apply to periods after December 31, 2014, under rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding after clause (v) the following new clause:

''(vi) the basis of any property which is part of a qualifying efficient industrial use water project under section 48D.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48B the following new item:

''Sec. 48D. Qualifying efficient industrial process water use project credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after January 1, 2011, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

By Mr. WYDEN (for himself, Mr. CORNYN, and Mr. HARKIN):

S. 1640. A bill to amend title XVIII of the Social Security Act to provide coverage of intensive lifestyle treatment; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise today to introduce the Take Back Your Health Act of 2009. I want to thank my friends Senator CORNYN and Senator HARKIN for joining as original cosponsors of this bill.

This bill is another example of how Democrats and Republicans can come together on health reform. This bill incorporates ideas that bridge the philosophies of both parties: prevention, individual responsibility, and paying for health care services that provide value.

These days, health care reformers talk about bending the cost curve down and focusing on delivery system ''game changers''. Often my friends and I have talked about how pevention—preventing disease or illness before it happens—does both, but is not scored as bending the cost curve by the Congressional Budget Office.

Over the last year, I have worked with some of the brightest minds in prevention—Doctors Dean Ornish, Mike Roizen, and Mark Hyman—on how to design a program that will change the focus of medicine from treating medical problems to preventing them while delivering savings. The road that took us to this bill has not been an easy one, but I believe this bill achieves all of our goals when it comes to encouraging healthier behaviors that will help prevent disease, especially chronic diseases.

The heart of this bill is what's called an intensive lifestyle treatment program. This program is an individualized health plan prescribed by a doctor that gets people living healthier and getting healthier through exercise, nutrition counseling, care coordination, medication management, and stopping smoking.

This type of program has been proven to help or even reverse the progression of many chronic diseases. A Highmark Blue Cross Blue Shield study found that their costs went down 50 percent after their patients took part in an intensive lifestyle program. That can mean big savings for Medicare and for seniors.

Even a CMS Medicare demonstration—which notoriously does not score

savings for anything—found that people who went through a lifestyle program had the same or lower costs over three years than as Medicare beneficiaries who didn't go through the program.

In times like these, the American people want to know that the Medicare program is going to get their money's worth. The Take Back Your Health Act embraces a pay-for-performance type system. Doctors are paid a bundled payment to encourage efficiency and teamwork, and they are held responsible for their success. If a patient's health status does not improve according to at least two measures, the doctor doesn't get paid. In addition, if a patient goes through the program for diabetes, but still has problems and has to go to the hospital, the lifestyle treatment doctor doesn't get paid.

The last innovation in this program is that it gives individuals a financial incentive for getting healthier. Every person who goes through this treatment program and improves his or her health status gets a one-time $200 reward.

The beauty of this bill is that everyone has skin in the game: the doctor, the patient, and the government. That will be the secret of its success. It is just this kind of innovative program that can be a real game-changer for Medicare and for our entire health care system, by bringing the focus of our health care system back to the basics of making us healthier.

I look forward to working with Chairman BAUCUS and Senator GRASSLEY on including this bill in health reform. I urge my colleagues to join me as cosponsors on this bill.

By Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 1643. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the conversion of heating using oil fuel to using natural gas or biomass feedstocks, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, addressing our Nation's dependence on imported oil and our greenhouse gas emissions will require policies that extend across the economy, as well as policies that are more narrowly tailored to specific sectors. Today, I rise with my colleague from Maine, Senator SNOWE, to offer a bill that would enhance energy security and reduce greenhouse gas emissions associated with heating our nation's homes and buildings. Our bill, the Cleaner, Secure and Affordable Thermal Energy Act, creates significant incentives for consumers, businesses, and tax-exempt entities that now rely on heating oil to convert to energy-efficient natural gas or biomass heating systems.

Across the country, and particularly in the Northeast and Midwest, many homes and buildings still derive heat from oil-burning furnaces. According to the Energy Information Administration, in 2007, our Nation consumed nearly 160 million barrels of oil for heating fuel. This use of heating oil continues despite the existence of widely available alternatives that are cleaner, more secure, and more affordable.

On April 22, I held a hearing in the Energy and Natural Resources Committee on the Energy Efficiency Resource Standards. The Committee heard from several witnesses about the advantages of and efforts to convert residential, business, and public users from fuel oil to natural gas and biomass heating systems. For each household that converts from fuel oil to a natural gas heating system, we avoid 2.1 metric tons of greenhouse gas emissions. For each commercial building, we avoid 9.9 metric tons, and for each industrial facility, we avoid as much as 2,984 metric tons. These emission reductions are even more significant for conversions to heating systems that are fired by biomass resources.

Besides being cleaner, natural gas and biomass are far more secure resources. Ninety-eight percent of domestically consumed natural gas is produced in North America, and domestic reserves of natural gas are estimated at 100 years based on current consumption.

Finally, since the price of natural gas and biomass is lower and less volatile than the price oil, converting offers significant short- and long-term cost savings to consumers. For instance, while the average annual cost of using fuel oil for home heating averages $1,734, the average annual cost of operating a natural gas furnace is $1,004.

But significant up-front costs prevent many families and businesses from converting their heating systems.

The Cleaner, Secure and Affordable Thermal Energy Act will make these conversions more affordable for American families, businesses, and tax-exempt entities.

First, for residential consumers, the Act establishes a 30 percent tax credit for costs associated with converting from a fuel oil to natural gas or biomass heating system. The credit is capped at $3,500, $4,000 in the case of biomass stoves. To qualify, the replacement equipment must be energy efficient; a natural gas boiler must have an AFUE rating of at least 85 percent, a replacement natural gas furnace must have an AFUE rating of at least 92 percent, and a replacement biomass appliance must have a thermal efficiency rating of more than 75 percent.

For business taxpayers, the act authorizes bonus depreciation for property installed before 2012. This would enable business taxpayers to expense—that is, immediately write-off—half of the cost of qualifying property, and depreciate the remaining balance over the typical cost-recovery period.

Many of the Nation's heating oil systems are used by public entities, particularly school systems. To help public entities finance their conversions to natural gas and biomass heating, the Act adds conversion programs as an activity eligible for Qualified Energy Conservation Bonds.

Finally, to encourage expansion of natural gas service capabilities, the act includes a two-year extension of the 15-year depreciation schedule created for distribution facilities under the Energy Policy Act of 2005.

The act would move us significantly in the direction of a low-carbon economy while enhancing energy security and reducing heating costs. I look forward to working with Senator SNOWE to enacting our bill into law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 245—RECOGNIZING SEPTEMBER 11 AS A ''NATIONAL DAY OF SERVICE AND REMEMBRANCE''

Mr. SCHUMER (for himself, Mrs. GILLIBRAND, Mr. MENENDEZ, Mr. LAUTENBERG, Mr. CASEY, Mr. SPECTER, Mr. DODD, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 245

Whereas, on September 11, 2001, terrorists ruthlessly attacked the United States, leading to the tragic deaths and injuries of thousands of innocent United States citizens and other citizens from more than 90 different countries and territories;

Whereas in response to the attacks in New York City, Washington, D.C., and Shanksville, Pennsylvania, firefighters, police officers, emergency medical technicians, physicians, nurses, military personnel, and other first responders immediately and without concern for their own well-being rose to service, in a heroic attempt to protect the lives of those still at risk, consequently saving thousands of men and women;

Whereas in the immediate aftermath of the attacks, thousands of recovery workers, including trades personnel, iron workers, equipment operators, and many others, joined with firemen, police officers, and military personnel to help to search for and recover victims lost in the terrorist attacks;

Whereas in the days, weeks, and months following the attacks, thousands of people in the United States and others spontaneously volunteered to help support the rescue and recovery efforts, braving both physical and emotional hardship;

Whereas many first responders, rescue and recovery workers, and volunteers, as well as survivors of the 9/11 terrorist attacks, continue to suffer from serious medical illnesses and emotional distress related to the physical and mental trauma of the 9/11 tragedy;

Whereas hundreds of thousands of brave men and women continue to serve every day, having answered the call to duty as members of the United States Armed Forces, with thousands having given their lives or suffered injury to defend our Nation's security and prevent future terrorist attacks;

Whereas the entire Nation witnessed and shared in the tragedy of September 11, 2001, and in the immediate aftermath of the attacks became unified under a remarkable spirit of service and compassion that inspired and helped heal the Nation;

Whereas in the years immediately following the attacks of September 11, 2001, the U.S. Bureau of Labor Statistics documented

a marked increase in volunteerism among the people of the United States;

Whereas families of 9/11 victims, survivors, first responders, rescue and recovery workers, and volunteers called for Congress to pass legislation to formally authorize the establishment of September 11 as an annually recognized ''National Day of Service and Remembrance'', and for the President of the United States to proclaim the day as such;

Whereas, in 2004, Congress unanimously passed H. Con. Res. 473, expressing the sense of Congress that it is appropriate to observe the anniversary of the attacks of September 11, 2001, with voluntary acts of service and compassion;

Whereas hundreds of thousands of people in the United States from all 50 States, as well as others who live in 170 different countries, annually observe the anniversary of the attacks of September 11, 2001, by personally engaging in service, good deeds, and other charitable acts; and

Whereas, on March 31, 2009, Congress passed the Edward M. Kennedy Serve America Act, which included for the first time authorization and Federal recognition of September 11 as a ''National Day of Service and Remembrance'', a bill signed into law on April 21, 2009, by President Barack Obama: Now, therefore, be it

Resolved, That the Senate—

(1) calls upon all people in the United States to annually observe a ''National Day of Service and Remembrance'', with appropriate and personal expressions of reflection, including performing good deeds, attending memorial and remembrance services, and voluntarily engaging in community service or other charitable activities of their own choosing in honor of those who lost their lives or were injured in the attacks of September 11, 2001, in tribute to those who rose to come to the aid of those in need, and in defense of our Nation; and

(2) urges all people in the United States to continue to live their lives throughout the year with the same spirit of unity, service, and compassion that was exhibited throughout the Nation following the terrorist attacks of September 11, 2001.

SENATE RESOLUTION 246—REQUIRING THAT LEGISLATION CONSIDERED BY THE SENATE TO BE CONFINED TO A SINGLE ISSUE

Mr. ENZI (for himself and Mr. BARRASSO) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 246

Resolved,

SECTION 1. SINGLE ISSUE REQUIREMENT.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider a bill or resolution that is not confined to a single subject.

(b) SUPERMAJORITY WAIVER AND APPEALS.—

(1) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of two-thirds of the Members, duly chosen and sworn.

(2) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 30 minutes, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

Mr. ENZI. Mr. President, I rise today to discuss the legislative climate the United States Senate has found itself operating in. Like many of my colleagues, I began my political career in local government. I was mayor in my hometown and then served as a legislator in the Wyoming State Legislature. It was during this time I learned that the most effective legislation comes from a process that is transparent and focused. For example, the Wyoming State Legislature requires that all bills must be focused on one issue. They cannot be loaded up with random provisions, riders, and add-ons that have nothing to do with the overall legislation. In Congress, we often use omnibus bills to pass multiple legislative items that should be considered on their own merit. Omnibus often create more problems in the long run than they solve.

Instead of focusing on one policy issue at a time, we have allowed legislative logjams to foul up the Senate's work and ill-considered legislation to be hastily pushed through this institution. These legislative practices, which have become the norm are a gangrene that eats away at this institution.

Legislation that is fundamental to our country's wellbeing has become politicized and burdened with extraneous provisions that have not been fully vetted through the regular order. Most of the time Members have not had the opportunity to read the bills they are voting on, let alone the public which will have to live under and pay for whatever lurks in the unseen pages. By tolerating this behavior, the Senate is allowing legislation needed to address our Nation's most pressing challenges to go through unrefined and lousy with special interest provisions.

To help bring this institution back in line with its original purpose, today I submit my Single Issue Legislation resolution. I want this resolution to be a starting point for changing the attitude the Senate has toward building bills. It will allow us to focus on getting individual issues addressed more effectively. Specifically, this resolution enacts a standing order that creates a point of order against a bill or resolution that is not confined to a single issue. This point of order can only be overruled by a supermajority.

My Single Issue Legislation gives the Senate the flexibility in the amendment process it has always enjoyed and allows the Senate as a legislative body to develop the structure and scope of the standing order through practice and precedent rather than through arbitrary rules. At the same time, we ensure that our legislative process is focused and productive. In short, we bring ourselves back to how the Founding Fathers intended and wanted our legislative process to operate.

Our job is not to score political points by stuffing as many pet projects and knee-jerk provisions as we can into bills, but rather to represent the needs of our constituents, our States, and our country by doing what is best for us as a nation. We must get back to a better process for crafting and considering legislation so that we can enact effective policies to meet the many challenges we face today. This is why we were elected to serve in the United States Senate. We owe it to the people we represent to work through a process that allows legislation to be properly and thoroughly considered and debated. My Single Issue Legislation resolution helps us do just that.

SENATE RESOLUTION 247—DESIGNATING SEPTEMBER 26, 2009, AS ''NATIONAL ESTUARIES DAY''

Mr. WHITEHOUSE (for himself, Mrs. BOXER, Mr. BURR, Mr. CARDIN, Mr. CARPER, Mr. COCHRAN, Ms. COLLINS, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Mr. GREGG, Ms. LANDRIEU, Mr. LAUTENBERG, Ms. MIKULSKI, Mrs. MURRAY, Mrs. SHAHEEN, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 247

Whereas the estuary regions of the United States comprise a significant share of the national economy, with 43 percent of the population, 40 percent of employment, and 49 percent of economic output located in such regions;

Whereas coasts and estuaries contribute more than $800,000,000,000 annually in trade and commerce to the Nation's economy;

Whereas more than 43 percent of all adults in the United States visit a sea coast or estuary at least once a year to participate in some form of recreation, generating $8,000,000,000 to $12,000,000,000 in revenue annually;

Whereas more than 28,000,000 jobs in the United States are supported through commercial and recreational fishing, boating, tourism, and other coastal industries that rely on healthy estuaries;

Whereas estuaries provide vital habitat for countless species of fish and wildlife, including many that are listed as threatened or endangered;

Whereas estuaries provide critical ecosystem services that protect human health and public safety, including water filtration, flood control, shoreline stabilization and erosion prevention, and protection of coastal communities during extreme weather events;

Whereas 55,000,000 acres of estuarine habitat have been destroyed over the last 100 years;

Whereas bays once filled with fish and oysters have become dead zones filled with excess nutrients, chemical wastes, and harmful algae;

Whereas sea level rise is accelerating the degradation of estuaries by submerging low-lying lands, eroding beaches, converting wetlands to open water, exacerbating coastal flooding, and increasing the salinity of estuaries and freshwater aquifers;

Whereas in the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), Congress found and declared that it is national policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone, including estuaries, for current and future generations;

Whereas estuary restoration efforts cost-effectively restore natural infrastructure in local communities, helping to create jobs and reestablish the natural functions of estuaries that yield countless benefits; and

Whereas September 26, 2009, has been designated ''National Estuaries Day'' to increase awareness among all citizens, including local, State, and Federal officials, about the importance of healthy estuaries and the need to protect them: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 26, 2009, as ''National Estuaries Day'';

(2) supports the goals and ideals of ''National Estuaries Day'';

(3) acknowledges the importance of estuaries to the Nation's economic well-being and productivity;

(4) recognizes the persistent threats that undermine the health of the Nation's estuaries;

(5) applauds the work of national and community organizations and public partners to promote public awareness, protection, and restoration of estuaries; and

(6) reaffirms its support for estuaries, including the preservation, protection, and restoration thereof, and expresses its intent to continue working to protect and restore the estuaries of the United States.

SENATE RESOLUTION 248—DESIGNATING THE MONTH OF AUGUST 2009 AS ''AGENT ORANGE AWARENESS MONTH''

Ms. COLLINS (for herself, Mr. BEGICH, Ms. SNOWE, Ms. MURKOWSKI, and Mr. ROCKEFELLER) submitted the following resolution; which was considered and agreed to:

S. RES. 248

Whereas between 1964 and 1973, 8,744,000 men and women bravely served our Nation in the Vietnam War;

Whereas an estimated 2,600,000 service men and women may have been exposed to Agent Orange in Vietnam;

Whereas Agent Orange is an herbicide that was used during the Vietnam War to kill unwanted plant life and remove leaves from trees that provided cover for the enemy;

Whereas the United States military sprayed more than 19,000,000 gallons of herbicide throughout South Vietnam, with Agent Orange accounting for approximately 11,000,000 gallons of this amount;

Whereas Agent Orange is an extremely toxic substance that contains dioxin;

Whereas the Department of Veterans Affairs has recognized that certain cancers and other health problems are associated with exposure to Agent Orange;

Whereas John Baldacci, the Governor of the State of Maine, has proclaimed August 2009 as ''Agent Orange Awareness Month'' for that State;

Whereas the State of Alaska has 76,000 veterans, the highest population of veterans per capita, with 26,000 of these being veterans of the Vietnam War; and

Whereas, as a Nation, we are deeply grateful and thankful for those men and women who bravely served during the Vietnam War: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of August 2009 as ''Agent Orange Awareness Month'';

(2) calls attention to those veterans who were exposed to Agent Orange and the adverse effects that such exposure has had on their health;

(3) recognizes the sacrifices that our veterans and servicemembers have made and continue to make on behalf of our great Nation, especially those veterans who were exposed to Agent Orange;

(4) reaffirms its commitment to our Nation's veterans; and

(5) does not, by this resolution, authorize, support, or settle any claim against the United States.

SENATE RESOLUTION 249—HONORING UNITED STATES NAVY PILOT CAPTAIN MICHAEL SCOTT SPEICHER WHO WAS KILLED IN OPERATION DESERT STORM

Mr. ROBERTS (for himself and Mr. NELSON of Florida) submitted the following resolution; which was considered and agreed to:

S. RES. 249

Whereas more than 88,000 Americans remain missing from World War II, the Korean War, the Cold War, the Vietnam War, and the wars in Iraq and Afghanistan;

Whereas the people of the United States honor Captain Michael Scott Speicher;

Whereas Captain Speicher was shot down in Wadi Thumayal while flying an F/A-18 Hornet fighter jet on January 16, 1991, the first night of the Persian Gulf War;

Whereas Captain Speicher's fate remained unknown until July 2009, when United States Marines stationed in Anbar recovered his remains in an unmarked desert grave;

Whereas Captain Speicher made the ultimate sacrifice for his country; and

Whereas Captain Speicher's wife and 2 children have sacrificed to the greatest extent, and the people of the United States honor them by commemorating Captain Speicher: Now, therefore, be it

Resolved, That the Senate—

(1) honors Captain Michael Scott Speicher for his service and sacrifice, and for giving his life fighting for the Nation in Operation Desert Storm;

(2) honors Captain Speicher's family for their love and undying strength and determination to bring Captain Speicher home;

(3) encourages the Department of Defense to continue the Nation's efforts to provide clear and accurate information about what happened to our fallen heroes, to determine the nature and cause of Captain Speicher's death, and to continue accounting for all who remain missing in action; and

(4) honors the United States Navy, the United States Marine Corps, the Defense Intelligence Agency, and the Department of Defense for their efforts to bring Captain Speicher home.

SENATE RESOLUTION 250—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN PEOPLE OF THE STATE OF CALIFORNIA V. AMIR SHERVIN

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 250

Whereas, in the case of *People of the State of California v. Amir Shervin*, No. 05–221878, pending in Superior Court in Alameda County, California, the prosecution has sought testimony from Eric Vizcaino, an employee of Senator Barbara Boxer;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent an employee of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved that Eric Vizcaino and any other employee of Senator Boxer's office from whom testimony may be necessary are authorized to testify in the case of *People of the State of California v. Amir Shervin*, except concerning matters for which a privilege should be asserted.

Sec. 2. The Senate Legal Counsel is authorized to represent employees of Senator Boxer's office in connection with the testimony authorized in section one of this resolution.

SENATE CONCURRENT RESOLUTION 38—EXPRESSING SUPPORT FOR THE DESIGNATION OF AN EARLY DETECTION MONTH TO ENHANCE PUBLIC AWARENESS OF THE NEED FOR SCREENING FOR BREAST CANCER AND ALL OTHER FORMS OF CANCER

Mrs. HAGAN (for herself and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 38

Whereas more than 2,000,000 new cases of cancer are diagnosed in the United States every year;

Whereas the most common types of cancer in the United States are nonmelanoma skin cancer, breast cancer in women, prostate cancer in men, lung cancer, and colorectal cancers;

Whereas 1 out of every 8 women in the United States will develop breast cancer in her lifetime;

Whereas incidence of breast cancer in young women is much lower than in older women, and breast cancers are generally more aggressive and result in lower survival rates when they occur in young women;

Whereas breast cancer takes the life of 1 woman in the United States every 13 minutes;

Whereas, in 2009, approximately 192,370 women in the United States will be diagnosed with invasive breast cancer;

Whereas available treatments are very unlikely to cure advanced breast cancer;

Whereas many oncologists and breast cancer researchers believe that a cure for breast cancer will not be discovered until well into the future;

Whereas lung cancer (both small cell and non-small cell) is the second most common cancer in women;

Whereas, in 2009, approximately 11,270 women in the United States will be diagnosed with invasive cervical cancer, of which approximately 4,070 will die;

Whereas, if ovarian cancer is detected and treated early, the survival rate is 93 percent, however, fewer than 20 percent of all cases of ovarian cancer are found at an early stage;

Whereas prostate cancer is the second leading cause of cancer death among men, with more than 80 percent of all cases occurring in men more than 65 years old;

Whereas African-American men are diagnosed with prostate cancer at later stages and die of prostate cancer more often than White men;

Whereas, in 2009, approximately 192,280 men in the United States will be diagnosed with invasive prostate cancer;

Whereas if cancer is detected early enough, more than 75 percent of all people who develop cancer could be saved;

Whereas greater awareness of the critical necessity for the early detection of breast cancer and other cancers will not only save tens of thousands of lives but also greatly reduce the financial strain on government and private health care services by detecting cancer before it requires very expensive medical treatment;

Whereas there is a need for enhanced public awareness of the need for cancer screening; and

Whereas the designation of an Early Detection Month will enhance public awareness of breast cancer and all other forms of cancer: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports the designation of an Early Detection Month to enhance public awareness of the need for screening for breast cancer and all other forms of cancer.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a field hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Saturday, August 22, 2009, at 10:00 a.m., in Chena Hot Springs Resort, Milepost 56.5, Chena Hot Springs Road, in Chena Hot Springs, Alaska.

The purpose of the hearing is to consider renewable energy production, strategies, and technologies with regard to rural communities.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to *Mike_Gauthier@energy.senate.gov* or *Chuck_Kleeschulte@energy.senate.gov*.

For further information, please contact Chuck Kleeschulte at (202) 224–8276 or Mike Gauthier at (202) 224–3907.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a field hearing has been scheduled before the Subcommittee on National Parks.

The hearing will be held on Monday, August 24, 2009, at 1:30 p.m., in the Board Room of Town Hall, 170 MacGregor Avenue, Estes Park, Colorado.

The purpose of the hearing is to consider climate change impacts on national parks in Colorado and related management activities.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC. 20510–6150, or by email to *scott miller@energy.senate.gov*.

For further information, please contact Scott Miller at (202) 224–5488.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, August 6, 2009, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Thursday, August 6, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, August 6, 2009.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, August 6, 2009 at 10 a.m. in Dirksen room 406 to hold a hearing entitled, ''Climate Change and Ensuring that America Leads the Clean Energy Transformation.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, August 6, 2009, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on August 6, 2009, at 10 a.m. in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on Thursday, August 6, 2009, at 10 a.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, August 6, 2009.

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

SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY, AND SECURITY

Mr. SANDERS. Mr. President, I ask unanimous consent that the Subcommittee on Aviation Operations, Safety, and Security of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, August 6, 2009, at 10 a.m. in room 253 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on the Constitution, be authorized to meet during the session of the Senate, on August 6, 2009, at 10:30 a.m., in SD–226 of the Dirksen Senate Office Building, to continue the executive business meeting from July 30, 2009.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. SANDERS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Thursday, August 6, 2009, at 10 a.m. to conduct a hearing entitled, ''The U.S. Postal Service in Crisis.''

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

PRIVILEGES OF THE FLOOR

Mr. CARPER. Mr. President, I ask unanimous consent that Joseph Lewis, of Senator HARKIN's staff, and Timothy Snider, of the Office of Congressional Accessibility Services, be granted the privilege of the floor for the duration of today's session.

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

Mr. LEAHY. Mr. President, I ask unanimous consent that Joi Chaney of

the Democratic policy committee be granted the privilege of the floor during today's session of the Senate.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Patrick Hartley and Jacob Butcher of my staff be granted floor privileges for the duration of today's session.

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

Mrs. MURRAY. Mr. President, on behalf of Senator DODD, I ask unanimous consent that a member of his staff, Deborah Katz, be granted the privilege of the floor for the duration of today's session.

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

FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Frank Lautenberg:									
Israel	Shekel		192.00						192.00
Turkey	Lira		250.00						250.00
United States	Dollar				7,090.54				7,909.54
Yuna Jacobson:									
Israel	Shekel		180.00						180.00
Turkey	Lira		242.00						242.00
United States	Dollar				8,328.47				8,328.47
Senator Daniel K. Inouye:									
France	Euro		4,912.00						4,912.00
Elizabeth L. Schmid:									
France	Euro		4,912.00						4,912.00
Gary Reese:									
France	Euro		4,912.00						4,912.00
Senator Thad Cochran:									
France	Euro		4,912.00						4,912.00
Senator Byron Dorgan:									
France	Euro		2,112.00						2,112.00
Bruce Evans:									
France	Euro		4,912.00						4,912.00
Kay Webber:									
France	Euro		4,912.00						4,912.00
Maria Rosario Gutierrez:									
France	Euro		1,018.00						1,018.00
Switzerland	Franc		275.27						275.27
United States					4,081.32				4,081.32
Senator Tom Harkin:									
France	Euro		4,912.00						4,912.00
Switzerland	Euro		275.27						275.27
Senator Richard C. Shelby:									
France	Euro		4,912.00						4,912.00
Anne Coleman Caldwell:									
France	Euro		4,912.00						4,912.00
David Schiappa:									
France	Euro		4,912.00						4,912.00
Brian P. Monahan:									
France	Euro		4,912.00						4,912.00
Stewart H. Holmes:									
France	Euro		3,894.00						3,894.00
United States	Dollar				4,150.72				4,150.72
*Delegation Expenses:									
France	Dollar						5.00		5.00
Senator Judd Gregg:									
Spain	Euro		585.00						585.00
Senator Patrick Leahy:									
Pakistan	Rupee		152.00						152.00
Afghanistan	Afghani		28.00						28.00
France	Euro		334.00						334.00
Daniel Ginsberg:									
Pakistan	Rupee		152.00						152.00
Afghanistan	Afghani		28.00						28.00
France	Euro		334.00						334.00
John Tracy:									
Pakistan	Rupee		152.00						152.00
Afghanistan	Afghani		28.00						28.00
France	Euro		334.00						334.00
*Delegation Expenses:									
Iraq	Dollar						93.00		93.00
Pakistan	Dollar						142.00		142.00
France	Dollar						44.00		44.00
Allen Cutler:									
United Arab Emirates	Dirham		572.00						572.00
United States	Dollar				8,096.87				8,096.87
Jonathan Kamarck:									
Egypt	Pound		1,600.00						1,600.00
United States	Dollar				6,643.39				6,643.39
Ellen Beares:									
Egypt	Pound		1,600.00						1,600.00
United States					6,643.39				6,643.39
Arthur Egerton Cameron, Jr.:									
France	Euro		600.00						600.00
United States	Dollar				7,823.73				7,823.73
Howard Sutton:									
France	Euro		778.00						778.00
United States	Dollar				7,823.73				7,823.73
Ellen Maldonado:									
South Korea	Won		480.00						480.00
Japan	Yen		1,737.00						1,737.00
Japan	Dollar		40.00						40.00
United States	Dollar				8,854.00				8,854.00

Total			72,004.54		70,355.16		284.00		142,643.00

*Delegation expenses include payments and reimbursements by the Department of State under the authority of Section 502(b) of the Mutual Security Act of 1954, as amended by Section 22 of Pub. L. 95–384, and expenses paid pursuant to S. Res. 179, agreed to May 25, 1977.

SENATOR DANIEL INOUYE,
Chairman, Committee on Appropriations, July 27, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Lindsey Graham:									
China	Dollar		254.00						254.00
Vietnam	Dollar		134.00						134.00
Japan	Dollar		132.00				35.00		167.00
Thomas W. Weinberg:									
Spain	Dollar		280.00						280.00
Senator John McCain:									
Hong Kong	Dollar		64.00				42.00		106.00
Vietnam	Dong		64.00						64.00
China	Yuan		57.00						57.00
Japan	Yen		562.00						562.00
Richard Fontaine:									
Hong Kong	Dollar		388.00						388.00
Vietnam	Dollar		200.00						200.00
Japan	Dollar		388.00						388.00
China	Dollar		146.00						146.00
Brooke F. Buchanan:									
Hong Kong	Dollar		388.00						388.00
Vietnam	Dollar		200.00						200.00
China	Dollar		146.00						146.00
Japan	Dollar		388.00						388.00
Senator Susan M. Collins:									
Russia	Ruble		151.00						151.00
Poland	Zloty		147.00						147.00
Czech Republic	Koruna		372.00						372.00
Robert Epplin:									
Russia	Ruble		151.00						151.00
Poland	Zloty		147.00						147.00
Czech Republic	Koruna		372.00						372.00
Senator Jack Reed:									
Kuwait	Dollar						75.00		75.00
Afghanistan	Dollar						38.00		38.00
United States	Dollar				8,992.75				8,992.75
Elizabeth King:									
Kuwait	Dollar						80.00		80.00
Pakistan	Dollar						5.00		5.00
Afghanistan	Dollar						29.00		29.00
United States	Dollar				8,992.75				8,992.75
Senator Mel Martinez:									
Spain	Dollar		310.00						310.00
Laura Bauld:									
Vietnam	Dollar		114.00						114.00
China	Dollar		193.00		40.00		40.00		273.00
Japan	Dollar		153.00				70.00		223.00
Michael J. Noblet:									
United States	Dollar				17,788.00				17,788.00
Burkina Faso	Dollar		177.00				336.00		513.00
Yemen	Dollar		222.00				401.00		623.00
Dana W. White:									
United States	Dollar				13,746.00				13,746.00
Burkina Faso	Dollar		582.00						582.00
Yemen	Dollar		569.00						569.00
Michael J. Kuiken:									
United States	Dollar				13,815.00				13,815.00
Yemen	Dollar		583.00						583.00
Burkina Faso	Dollar		598.00						598.00
Senator James M. Inhofe:									
Germany	Euro		62.00						62.00
Qatar	Riyal		237.00						237.00
Ethiopia	Birr		56.00						56.00
Rwanda	Franc		88.00						88.00
Ghana	Cedi		34.00						34.00
Anthony Lazarski:									
Germany	Euro		62.00						62.00
Qatar	Riyal		206.00						206.00
Ethiopia	Birr		45.00						45.00
Rwanda	Franc		82.00						82.00
Ghana	Cedi		54.00						54.00
Mark Powers:									
Germany	Euro		62.00						62.00
Qatar	Riyal		228.00						228.00
Ethiopia	Birr		45.00						45.00
Rwanda	Franc		88.00						88.00
Ghana	Cedi		34.00						34.00
Senator Jeff Sessions:									
Israel	New Shekel		684.84						684.84
Afghanistan	Afghani		10.00						10.00
Pakistan	Rupee		662.14						662.14
Turkey	Lira		326.18						326.18
Sandra E. Luff:									
Israel	New Shekel		897.15						897.15
Afghanistan	Afghani		43.00						43.00
Pakistan	Rupee		66.43						66.43
Turkey	Lira		321.18						321.18
Senator Lindsey Graham:									
France	Dollar		147.35				24.53		171.88
Morocco	Dollar		72.55				10.85		83.40
Algeria	Dollar		120.39						120.39
Greece	Dollar		101.71						101.71
Senator John Thune:									
France	Euro		355.00						355.00
Morocco	Dirham		272.00						272.00
Algeria	Dinar		148.00						148.00
Greece	Euro		564.00						564.00
Ryan Nelson:									
France	Euro		355.00						355.00
Morocco	Dirham		272.00						272.00
Algeria	Dinar		148.00						148.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Greece	Euro		564.00						564.00
Senator Mark Begich:									
United Arab Emirates	Dollar		110.00						110.00
Afghanistan	Dollar		16.00						16.00
Dana W. White:									
United States	Dollar				8,072.00				8,072.00
France	Euro		1,064.00						1,064.00
Richard W. Fieldhouse:									
United States	Dollar				8,236.00				8,236.00
Russia	Ruble		695.87						695.87
Poland	Zloty		173.42						173.42
Czech Republic	Koruna		761.84						761.84
Senator Mark Udall:									
United Arab Emirates	Dollar		103.00						103.00
Afghanistan	Dollar		16.00						16.00
Jennifer Barrett:									
United Arab Emirates	Dollar		103.00				5.00		108.00
Afghanistan	Dollar		16.00						16.00
Pakistan	Dollar						18.00		18.00
Richard D. DeBobes:									
Russia	Ruble		302.00				95.00		397.00
Poland	Zloty		147.00				89.00		236.00:
Czech Republic	Koruna		372.00				90.00		462.00
United States	Dollar				8,236.00				8,236.00
Senator Carl Levin:									
United States	Dollar				8,236.00				8,236.00
Russia	Ruble		302.00				199.00		501.00
Poland	Zloty		147.00				35.00		182.00
Czech Republic	Koruna		372.00				110.00		482.00
Richard H. Fontaine:									
Singapore	Dollar		1,347.00						1,347.00
Senator Kay R. Hagan:									
United Arab Emirates	Dollar		103.00						103.00
Afghanistan	Dollar		16.00						16.00
Pakistan	Dollar						6.00		6.00
John M. Harney:									
United Arab Emirates	Dollar		103.00						103.00
Afghanistan	Dollar		16.00						16.00
Senator E. Benjamin Nelson:									
Poland	Zloty		413.48						413.48
United States	Dollar				8,682.58				8,682.58
Ann Premer:									
Poland	Zloty		467.23						467.23
United States	Dollar				8,682.58				8,682.58
Senator James M. Inhofe:									
France	Euro		545.00		60.00		50.00		655.00
Total			23,857.76		113,579.66		1,883.38		139,320.80

SENATOR CARL LEVIN,
Chairman, Committee on Armed Services, July 8, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mark Warner:									
Pakistan	Dollar		152.00						152.00
Afghanistan	Dollar		28.00						28.00
France	Euro		167.00		470.40				637.40
United States	Dollar				4,501.90				4,501.90
Mark Brunner:									
Pakistan	Dollar		152.00						152.00
Afghanistan	Dollar		28.00						28.00
France	Euro		334.00						334.00
Total			861.00		4,972.30				5,833.30

SENATOR KENT CONRAD,
Chairman, Committee on the Budget, July 21, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Amber Cottle:									
China	Yuan		254.53						254.53
Hong Kong	Dollar		691.96						691.96
United States	Dollar				11,277.43				11,277.43
Ayesha Khanna:									
China	Yuan		156.70						156.70
Hong Kong	Dollar		713.71						713.71
United States	Dollar				11,277.43				11,277.43
Hun Quach:									
China	Yuan		156.35						156.35
Hong Kong	Dollar		877.54						877.54
United States	Dollar				11,277.43				11,277.43
Christopher Campbell:									
China	Yuan		176.65						176.65
Hong Kong	Dollar		807.92						807.92

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States					11,277.43				11,277.43
Keith Franks:									
China	Yuan		171.32						171.32
Hong Kong	Dollar		723.37						723.37
United States	Dollar				11,277.43				11,277.43
Greta Lundeberg:									
China	Yuan		225.53						225.53
Hong Kong	Dollar		908.28						908.28
United States	Dollar				11,277.43				11,277.43
Michelle Miranda:									
China	Yuan		151.29						151.29
Hong Kong	Dollar		783.66						783.66
United States	Dollar				11,277.43				11,277.43
Jeffrey Phan:									
China	Yuan		248.33						248.33
Hong Kong	Dollar		696.66						696.66
United States	Dollar				11,277.43				11,277.43
Brian Rice:									
China	Yuan		242.35						242.35
Hong Kong	Dollar		844.08						844.08
United States	Dollar				11,781.43				11,781.43
Ted Serafini:									
China	Yuan		163.51						163.51
Hong Kong	Dollar		877.93						877.93
United States	Dollar				11,781.43				11,781.43
Amit Kalra:									
China	Yuan		245.78						245.78
Hong Kong	Dollar		338.88						338.88
United States	Dollar				11,781.43				11,781.43
Delegation Expenses:									
Hong Kong					50.41				50.41
Total			10,456.33		125,614.14				136,070.47

SENATOR MAX BAUCUS,
Chairman, Committee on Finance, July 31, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Amber Cottle:									
Mexico	Peso		285.52						285.52
Trinidad & Tobago	Dollar		2,071.62						2,071.62
United States	Dollar				1,966.27				1,966.27
Janis Lazda:									
Trinidad	Dollar		3,623.78						3,623.78
United States	Dollar				1,440.55				1,440.55
Heather O'Loughlin:									
Mexico	Peso		114.47						114.47
United States	Dollar				590.92				590.92
Chelsea Thomas:									
Mexico	Peso		181.26						181.26
Trinidad & Tobago	Dollar		2,071.62						2,071.62
United States	Dollar				1,996.27				1,996.27
Delegation Expenses:									
							2,380.98		2,380.98
David Ross:									
Switzerland	Franc		992.02						992.02
Belgium	Euro		1,068.00						1,068.00
United States	Dollar				2,575.27				2,575.27
Total			10,408.29		8,569.28		2,380.98		21,358.55

SENATOR MAX BAUCUS,
Chairman, Committee on Finance, July 31, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2008

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Max Baucus:									
United Arab Emirates	Dirham		174.80						174.80
Vietnam	Dong		899.30						899.30
United States	Dollar				13,143.47				13,143.47
Melodee Hanes:									
United Arab Emirates	Dirham		207.45						207.45
Vietnam	Dong		768.42						768.42
United States	Dollar				13,143.47				13,143.47
William Dauster:									
United Arab Emirates	Dirham		151.64						151.64
Vietnam	Dong		754.79						754.79
United States	Dollar				13,143.47				13,143.47
Demetrios Marantis:									
United Arab Emirates	Dirham		238.49						238.49
Vietnam	Dong		811.66						811.66
United States	Dollar				11,986.47				11,986.47
Jon Selib:									
United Arab Emirates	Dirham		232.23						232.23
Vietnam	Dong		744.04						744.04

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2008—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				11,986.47				11,986.47
Janis Lazda:									
United Arab Emirates	Dirham		450.61						450.61
Vietnam	Dong		850.43						850.43
United States	Dollar				11,986.47				11,986,47
Chelsea Thomas:									
United Arab Emirates	Dirham		247.21						247.21
Vietnam	Dong		1,001.30						1,001.30
United States	Dollar				11,986.47				11,986.47
Carol Guthrie:									
United Arab Emirates	Dirham		231.96						231.96
Vietnam	Dong		809.04						809.04
United States	Dollar				11,986.47				11,986.47
Demetrios Marantis:									
China	Yuan		208.11						208.11
United States	Dollar				11,910.49				11,910.49
Janis Lazda:									
China	Yuan		407.66						407.66
United States	Dollar				11,910.49				11,910.49
Hun Quach:									
China	Yuan		345.96						345.96
Hong Kong	Dollar		1,249.56						1,249.56
Singapore	Dollar		877.47						877.47
Malaysia	Ringgit		14.00						14.00
United States	Dollar				10,236.33				10,236.33
Chris Adamo:									
Poland	Zloty		706.00						706.00
United States	Dollar				2,886.11				2,886.11
JoEllen Darcy:									
Poland	Zloty		342.00						342.00
United States	Dollar				2,952.59				2,952.59
Paul Wilkins:									
Poland	Zloty		192.84						192.84
United States	Dollar				3,443.82				3,443.82
Total			24,903.44		130,716.12				155,619.56

SENATOR MAX BAUCUS,
Chairman, Committee on Finance, July 31, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Robert Casey, Jr.:									
Israel	Shekel		402.00						402.00
Turkey	Lira		380.00						380.00
United States	Dollar				7,633.47				7,633.47
Senator Bob Corker:									
Italy	Euro		259.00						259.00
Sudan	Pound		354.00						354.00
Kenya	Shilling		386.00						386.00
Tanzania	Shilling		161.00						161.00
Rwanda	Franc		145.00						145.00
United States	Dollar				6,689.63				6,689.63
Senator Jim DeMint:									
Belgium	Euro		429.00						429.00
United States	Dollar				3,434.87				3,434.87
Senator Johnny Isakson:									
Sudan	Pound		125.00						125.00
Kenya	Shilling		125.00						125.00
Tanzania	Shilling		125.00						125.00
Rwanda	Franc		125.00						125.00
United States	Dollar				7,218.63				7,218.63
Senator Ted Kaufman:									
Kuwait	Dinar		75.00						75.00
Afghanistan	Dollar		13.00						13.00
United States	Dollar				11,010.03				11,010.03
Israel	Shekel		146.03						146.03
Syria	Pound		24.58						24.58
Turkey	Lira		32.02						32.02
United States	Dollar				8,984.66				8,984.66
Senator John Kerry:									
Pakistan	Rupee		170.00						170.00
Sudan	Dollar		210.03						210.03
United Arab Emirates	Dirham		94.55						94.55
United States	Dollar				4,062.77				4,062.77
Jordan	Dinar		146.23						146.23
Italy	Euro		259.00						259.00
United States	Dollar				11,338.77				11,338.77
China	Renminbi		831.00						831.00
United States	Dollar				13,399.85				13,399.85
Senator Richard Lugar:									
Russia	Ruble		153.00						153.00
Senator James Risch:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108.00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,920.00						1,920.00
Senator Jeanne Shaheen:									
United Arab Emirates	Dirham		105.00						105.00
Afghanistan	Dollar		10.00						10.00
Pakistan	Rupee		22.00						22.00
Jonah Blank:									
Indonesia	Dollar		2,639.00						2,639.00
United States	Dollar				13,055.08				13,055.08
Shellie Bressler:									
Zimbabwe	Dollar		1,206.00						1,206.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
South Africa	Rand		611.00						611.00
United States	Dollar				10,372.55				10,372.55
Afghanistan	Dollar		34.00						34.00
United Arab Emirates	Dirham		191.00						191.00
United States	Dollar				8,179.12				8,179.12
Jason Bruder:									
Bosnia and Herzegov	Convertible Mark		168.00						168.00
Serbia	Dinar		75.00						75.00
Kosovo	Euro		144.00						144.00
United States	Dollar				8,520.94				8,520.94
Heidi Crebo-Rediker:									
Ukraine	Hryvnia		1,164.94						1,164.94
United States	Dollar				7,690.61				7,690.61
Houston Ernst:									
Sudan	Pound		117.50						117.50
Kenya	Shilling		117.70						117.50
Tanzania	Shilling		117.50						117.50
Rwanda	Franc		117.50						117.50
United States	Dollar				6,689.91				6,689.61
Steven Feldstein:									
Ghana	Cedi		261.00						261.00
Niger	Dollar		340.00						340.00
United States	Dollar				13,018.87				13,018.87
Kathleen Frangione:									
Germany	Euro		2,885.97						2,885.97
United States	Dollar				7,830.38				7,830.38
China	Renminbi		461.00						461.00
United States	Dollar				12,797.52				12,797.52
Douglas Frantz:									
United Kingdom	Pound		567.12						567.12
United States	Dollar				7,200.00				7,200.00
United Arab Emirates	Dirham		2,084.38						2,084.38
Afghanistan	Dollar		24.00						24.00
United States	Dollar				8,149.12				8,149.12
Dillon Guthrie:									
Bosnia and Herzegov	Convertible Mark		256.00						256.00
Serbia	Dinar		64.00						64.00
Kosovo	Euro		197.00						197.00
United States	Dollar				8,520.94				8,520.94
Mark Helmke:									
Germany	Euro		2,028.77						2,028.77
United States	Dollar				9,122.44				9,122.44
Germany	Euro		1,099.00						1,099.00
United States	Dollar				7,584.00				7,584.00
Frank Jannuzi:									
Russia	Ruble		1,263.00						1,263.00
China	Renminbi		1,098.00						1,098.00
Korea	Won		400.00						400.00
Japan	Yen		458.00						458.00
United States	Dollar				11,405.88				11,405.88
China	Renminbi		1,001.00						1,001.00
Singapore	Dollar		948.00						948.00
United States	Dollar				11,492.65				11,492.65
Jofi Joseph:									
Israel	Shekel		402.00						402.00
Turkey	Lira		380.00						380.00
United States	Dollar				7,674.47				7,674.47
John Kiriakou:									
United Arab Emirates	Dirham		2,038.94						2,038.94
Afghanistan	Dollar		24.00						24.00
United States	Dollar				8,179.12				8,179.12
Chad Kreikemeier:									
Cyprus	Euro		902.00						902.00
United States	Dollar				9,208.51				9,208.51
United Arab Emirates	Dirham		70.00						70.00
Afghanistan	Dollar		10.00						10.00
Pakistan	Rupee		23.00						23.00
Robin Lerner:									
Iceland	Krona		626.00						626.00
United Arab Emirates	Dirham		203.00						203.00
Afghanistan	Dollar		100.00						100.00
United States	Dollar				10,606.39				10,606.39
Mark Lopes:									
Cyprus	Euro		1,105.00						1,105.00
United States	Dollar				9,802.53				9,802.53
Frank Lowenstein:									
Pakistan	Rupee		218.73						218.73
Sudan	Dollar		220.00						220.00
United Arab Emirates	Dirham		47.27						47.27
United States	Dollar				7,822.00				7,822.00
Jordan	Dinar		346.06						346.06
Italy	Euro		204.50						204.50
United States	Dollar				9.705.71				9,705.71
Carl Meacham:									
Uruguay	New Peso		868.00						868.00
Chile	Peso		1,914.00						1,914.00
United States	Dollar				7,824.70				7,824.70
Kenneth Myers, Jr.:									
Croatia	Kuna		385.00						385.00
Russia	Ruble		153.00						153.00
United States	Dollar				9,076.04				9,076.04
Kenneth Myers III:									
Croatia	Kuna		385.00						385.00
Russia	Ruble		153.00						153.00
United States	Dollar				9,076.04				9,076.04
Melanie Nakagawa:									
Switzerland	Euro		992.00						992.00
Belgium	Euro		1,062.00						1,062.00
United States	Dollar				2,575.27				2,575.27
Stacie Oliver:									
Italy	Euro		259.00						259.00
Sudan	Dinar		354.00						354.00
Kenya	Shilling		386.00						386.00
Tanzania	Shilling		161.00						161.00
Rwanda	Franc		145.00						145.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				6,719.91				6,719.91
Michael Phelan:									
Pakistan	Rupee		681.27						681.27
United States	Dollar				9,522.34				9.522.34
Nilmini Rubin:									
Senegal	CFA		1,099.00						1,099.00
United States	Dollar				9,666.80				9.666.80
Shannon Smith:									
Zimbabwe	Dollar		1,151.00						1,151.00
South Africa	Rand		470.00						470.00
United States	Dollar				9,224.95				9,224.95
Sudan	Dollar		110.00						110.00
Chris Socha:									
Belgium	Euro		429.00						429.00
Cyprus	Euro		1,158.00						1,158.00
United States	Dollar				6,538.93				6,538.93
Halie Soifer:									
Kuwait	Dollar		104.00						104.00
Pakistan	Rupee		30.00						30.00
United States	Dollar				9,022.74				9,022.74
Israel	Shekel		275.00						275.00
Syria	Pound		30.00						30.00
Turkey	Lira		47.02						47.02
United States	Dollar				8,176.88				8,176.88
Fatema Sumar:									
Turkey	Lira		600.00						600.00
Pakistan	Rupee		236.00						236.00
United States	Dollar				9,980.98				9.980.98
United Arab Emirates	Dirham		461.00						461.00
Afghanistan	Dollar		89.00						89.00
United States	Dollar				8,179.12				8,179.12
Laura Winthrop:									
Ghana	Cedi		180.00						180.00
Niger	Dollar		317.00						317.00
United States	Dollar				12,195.87				12.195.87
Total			54,473.41		406,181.99				460,655.40

SENATOR JOHN F. KERRY,
Chairman, Committee on Foreign Relations, July 29, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS—AMENDED REPORT—FOURTH QUARTER 2008 FOR TRAVEL FROM SEPT. 1 TO DEC. 31, 2008

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jonah Blank:									
India	Rupiah		302.00						302.00
Afghanistan	Dollar		100.00						100.00
Kuwait	Dinar		197.00						197.00
United States	Dollar				8,951.95				8,951.95
Total			599.00		8,951.95				9,550.95

SENATOR JOHN KERRY,
Chairman, U.S. Senate Committee on Foreign Relations, Apr. 23, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Coburn:									
United States	Dollar				11,159.80				11,159.80
Lebanon	Pound		232.00						232.00
Syria	Pound		148.00						148.00
Israel	Shekel		176.00						176.00
Romania	Leu		336.00						336.00
Senator Thomas Carper:									
United States	Dollar				8,129.11				8,129.11
United Arab Emirates	Dirham		80.00						80.00
Afghanistan	Afghani		69.00						69.00
Pakistan	Rupee		100.00						100.00
Wendy Anderson:									
United States	Dollar				8,129.11				8,129.11
United Arab Emirates	Dirham		80.00						80.00
Afghanistan	Afghani		69.00						69.00
Pakistan	Rupee		100.00						100.00
Benjamin Billings:									
United States	Dollar				1,597.62				1,597.62
Netherlands	Euro		342.00						342.00
Total			1,732.00		29,015.64				30,747.64

SENATOR JOSEPH LIEBERMAN,
Chairman, Committees on Homeland Security and Governmental Affairs, July 15, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Amy Klobuchar:									
Hong Kong	Dollar		75.00						75.00
Vietnam	Dong		82.00						82.00
China	Renminbi		57.00						57.00
Japan	Yen		205.00						205.00
Thomas Sullivan:									
Hong Kong	Dollar		307.00						307.00
Vietnam	Dong		269.00						269.00
China	Renminbi		135.00						135.00
Japan	Yen		362.00						362.00
Senator Jon Kyl:									
Israel	Shekel		47.80						47.80
Afghanistan	Dollar		23.58						23.58
Pakistan	Rupee		156.00						156.00
Turkey	Lira		215.47						215.47
Timothy Morrison:									
Israel	Shekel		179.92						179.92
Afghanistan	Dollar		33.58						33.58
Pakistan	Rupee		10.00						10.00
Turkey	Lira		265.47						265.47
Total			2,423.82						2,423.82

SENATOR PATRICK LEAHY,
Chairman, Committee on the Judiciary, July 31, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mike Enzi:									
Germany	Euro		62.00						62.00
Qatar	Riyals		34.00						34.00
Ethiopia	Birr		34.00						34.00
Rwanda	Franc		88.00						88.00
Ghana	Cedi		34.00						34.00
Senator Barbara Mikulski:									
United Kingdom	Pound		1,849.00						1,849.00
United States	Dollar				8,356.56				8,356.56
Julia Frifield:									
United Kingdom	Pound		1,849.00						1,849.00
United States	Dollar				8,356.56				8,356.56
Total			3,950.00		16,713.12				20,663.12

SENATOR EDWARD M. KENNEDY,
Chairman, Committee on Health, Education, Labor, and Pensions,
July 29, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY & NATURAL RESOURCES FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Allen Stayman:									
United States	Dollar				1,846.70				1,846.70
Marshall Islands	Dollar		488.51						488.51
Isaac Edwards:									
United States	Dollar				1,846.70				1,846.70
Marshall Islands	Dollar		449.04						449.04
Senator Jeff Bingaman:									
United States	Dollar				9,896.47				9,896.47
Belgium	Euro		1,800.00						1,800.00
Germany	Euro		705.25						705.25
Robert Simon:									
United States	Dollar				6,492.52				6,492.52
Belgium	Euro		1,118.10						1,118.10
Germany	Euro		397.90						397.90
Jonathan Black:									
United Staes	Dollar				9,274.24				9,274.24
Belgium	Euro		1,157.00						1,157.00
Germany	Euro		730.00						730.00
Derek Dom:									
United States	Dollar				8,980.24				8,980.24
Belgium	Euro		1,117.00						1,117.00
Germany	Euro		733.75						773.75
Total			8,696.55		38,336.87				47,033.42

SENATOR JEFF BINGAMAN,
Chairman, Committee on Energy & Natural Resources, June 5, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mary Landrieu:									
United States	Dollar				10,334.62				10,334.62
The Netherlands	Euros		212.22						212.22
Tanner Johnson:									
United States	Dollar				1,087.62				1,087.62
The Netherlands	Euros		250.65						250.65
Stephanie Allen:									
United States	Dollar				1,178.62				1,178.62
The Netherlands	Euros		178.16						178.16
Jane Campbell:									
United States	Dollar				1,028.50				1,028.50
The Netherlands	Euros		297.25						297.25
Jeanne-Marie Ganucheau:									
United States	Dollar				1,679.62				1,679.62
The Netherlands	Euros		667.92						667.92
T. Bradley Keith:									
United States	Dollar				1,609.62				1,609.62
The Netherlands	Euros		895.00						895.00
Total			2,501.20		16,918.60				19,419.80

SENATOR MARY LANDRIEU,
Chairman, Committee on Small Business and Entrepreneurship, July 2, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kim Lipsky:									
Philippines	Pesos		913.72						913.72
United States	Dollar				3,578.46				3,578.46
Dahlia Melendrez:									
Philippines	Pesos		913.72						913.72
United States	Dollar				3,578.46				3,578.46
Senator Mike Johanns:									
Cuba	Dollar		33.00						33.00
Terry Van Dorn:									
Cuba	Dollar		33.00						33.00
Total:			1,893.44		7,156.92				9,050.36

SENATOR DANIEL AKAKA,
Chairman, Committee on Veterans' Affairs, United States Senate,
July 29, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. Dollar equivalent or U.S. currency	Foreign currency	U.S. Dollar equivalent or U.S. currency	Foreign currency	U.S. Dollar equivalent or U.S. currency	Foreign currency	U.S. Dollar equivalent or U.S. currency
Senator Bill Nelson			482.00						482.00
	Dollar				1,444.83				1,444.83
Caroline Tess			482.00						482.00
	Dollar				1,444.83				1,444.83
Greta Lundeberg			439.00						439.00
	Dollar				1,826.31				1,826.31
Louis Tucker			1,927.18						1,927.18
	Dollar				16,918.98				16,918.98
David Koger			1,927.18						1,927.18
	Dollar				16,918.98				16,918.98
John Maguire			600.00						600.00
	Dollar				864.42				864.42
Richard Girven			570.00						570.00
	Dollar				864.42				864.42
Eric Chapman			865.00						865.00
	Dollar				1,023.42				1,023.42
Clete Johnson			590.00						590.00
	Dollar				1,415.91				1,415.91
Caroline Tess			821.00						821.00
	Dollar				8,236.00				8,236.00
Senator Bill Nelson			635.00						635.00
	Dollar				8,900.33				8,900.33
Senator Richard Burr			1,339.00						1,339.00
							3,236.00		3,236.00
Senator Saxby Chambliss			1,339.00						1,339.00
Teresa Ervin			1,339.00						1,339.00
James Smythers			1,339.00						1,339.00
Jennifer Wagner			1,339.00						1,339.00
Total			16,033.36		59,858.43		3,236.00		79,127.79

SENATOR DIANE FEINSTEIN,
Chairman, Committee on Intelligence, July 24, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FOR TRAVEL FROM APR. 1 TO JUNE 20, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Eric Thu:									
United States	Dollar				8,758.51				8,758.51
Germany	Euro		1,476.00						1,476.00
Thomas Hassenboehloer:									
United States	Dollar				7,698.22				7,698.22
Germany	Euro		656.00						656.00
Allyne Todd Johnston:									
United States	Dollar				7,698.22				7,698.22
Germany	Euro		490.00						490.00
John Stoody:									
United States	Dollar				7,698.22				7,698.22
Germany	Euro		656.00						656.00
Christopher J. Albritton:									
United States	Dollar				7,692.25				7,692.25
Netherlands	Euro		649.00						649.00
Bettina Poirier:									
United States	Dollar				7,663.62				7,663.62
Netherlands	Euro		500.00						500.00
Total			4,427.00		47,209.04				51,636.04

SENATOR BARBARA BOXER,
Chairman, Committee on Environment & Public Works, July 30, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Orest Deychakiwsky:									
Moldova	Leu		1,025.00						1,025.00
United States	Dollar				7,802.94				7,802.94
Kyle Parker:									
Moldova	Leu		1,025.00						1,025.00
United States	Dollar				7,802.94				7,802.94
Russia	Ruble		1,224.00						1,224.00
United States	Dollar				7,378.05				7,378.05
Janice Helwig:									
Tajikistan	Somoni		3,168.21						3,168.21
Krygyzstan	Som		1,651.00						1,651.00
United States	Dollar				8,538.65				8,538.65
Shelly Han:									
Tajikistan	Somoni		3,168.21						3,168.21
Kyrgyzstan	Som		1,651.00						1,651.00
United States	Dollar				8,538.65				8,538.65
Japan	Yen		1,319.91						1,319.91
United States	Dollar				11,174.81				11,174.81
Winsome Packer:									
Ukraine	Hryvnia		1,701.00		2,438.00				4,139.00
Austria	Euro		31,114.00						31,114,00
Alex Johnson:									
Greece	Euro		2,064.00						2,064.00
United States	Dollar				7,788.81				7,788.81
Total:			49,111.33		61,462.85				110,574.18

SENATOR BENJAMIN CARDIN,
Chairman, Committee on Commission on Security and Cooperation in Europe,
July 28, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CODEL McCONNELL FOR TRAVEL FROM APR. 4 TO APR. 15, 2009

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mitch McConnell:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108,00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,920.00						1,920.00
Senator Saxby Chambliss:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108,00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,920.00						1,920.00
Senator John Barrasso:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108,00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,920.00						1,920.00
Senator James Risch:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108,00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,920.00						1,920.00
Admiral Brian Monahan:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CODEL McCONNELL FOR TRAVEL FROM APR. 4 TO APR. 15, 2009—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jordan	Dinar		1,108.00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,740.00						1,740.00
Sharon Soderstorm:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108.00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		913.00						913.00
Tom Hawkins:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108.00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,510.00						1,510.00
Roy Brownell:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108.00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,520.00						1,520.00
Stefanie Hagar:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108.00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,494.00						1,494.00
Sally Walsh:									
Egypt	Pound		809.00						809.00
Israel	Shekel		480.00						480.00
Jordan	Dinar		1,108.00						1,108.00
United Arab Emirates	Dirham		1,105.00						1,105.00
Italy	Euro		1,635.00						1,635.00
Delegation Expenses:*									
Egypt	Pound						6,413.28		6,413.28
Israel	Shekel						4,539.54		4,539.54
Jordan	Dinar						7,797.48		7,797.48
United Arab Emirates	Dirham						3,867.24		3,867.24
Afghanistan	Dollar						530.83		530.83
Italy	Euro						6,674.02		6,674.02
Total:			51,512.00				29,822.39		81,334.39

*Delegation expenses include payments and reimbursements to the Department of State, and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

SENATOR MITCH McCONNELL,
Chairman, Republican Leader, June 15, 2009.

VETERANS HEALTH CARE BUDGET REFORM AND TRANSPARENCY ACT OF 2009

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 101, S. 423.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 423) to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. AKAKA. Mr. President, I am very gratified that the Senate is acting on S. 423, the proposed Veterans Health Care Budget and Transparency Act of 2009. This bill would authorize, beginning in fiscal year 2011, advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two fiscal year budget authority.

The Committee on Veterans' Affairs held a hearing on pending health care legislation on April 22, 2009, during which the Committee received testimony on S. 423. Support for this bill was voiced by the Department of Veterans Affairs, Disabled American Veterans, American Federation of Government Employees, and Paralyzed Veterans of America. The Committee ordered the bill reported on May 21, 2009. The Committee report—S. Rpt, 111–041—was filed on July 8, 2009.

In 19 of the past 22 fiscal years, final VA appropriations have been enacted late and requests for supplemental appropriations for VA health care have increased in frequency during recent years. Over the past 7 years, final VA appropriations were late approximately 3 months on average. While there has been some impact on the timeliness and overall quality of VA care from these financial and management difficulties in the past, there is a serious concern that continued funding problems could significantly weaken the quality of veterans' health care. Providing sufficient, timely and predictable funding to the VA health care system would mitigate these dangers and allow VA administrators and directors to more efficiently and effectively provide medical care to veterans.

Advanced funding would allow the VA to function more effectively, to better align with funding cycles, and to avoid annual partisan political maneuvering. Through appropriating funds in advance to the medical services, medical support and compliance, and medical facilities accounts, we can avoid any disruption to the provision of adequate and timely health care to those who have sacrificed a great deal for this nation.

I understand that authorizing advanced appropriations is a serious endeavor and as such have made sure this legislation also enhances oversight of the VA health care budget process. The Comptroller General of the United States will be required to conduct a study of adequacy and accuracy of the budget projections made by VA's Enrollee Health Care Projection Model and any other model or methodology used to measure health care expenditures. The study would cover the five fiscal years included in each budget submission; however, the focus is intended to be upon the fiscal year for which the advance appropriation would be made. These reports would be submitted to the appropriate committees of Congress no later than the date on which the President submits the budget request for the following fiscal year.

This bill has received support from a myriad of organizations including The Partnership for Veterans Health Care Budget Reform, The Independent Budget Veterans Service Organizations, The Military Coalition, and the American Federation for Government Employees. I thank them for their efforts and ongoing commitment to this legislation.

I thank the many Senators who have cosponsored this legislation, including Committee members Senators BURR, ROCKEFELLER, MURRAY, SANDERS,

BROWN, TESTER, BEGICH, BURRIS, SPECTER and ISAKSON. I am also delighted that Senator SNOWE was an original cosponsor of this bill and has worked hard in support of it.

Mr. President, this legislation will bring much needed stability and predictability to the VA health care system and consistent, high-quality health care to the veterans and I am delighted with today's action by the Senate.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 129, H.R. 1016, the House companion; that all after the enacting clause be stricken and the text of S. 423 be inserted in lieu thereof; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table; that upon passage of H.R. 1016, S. 423 be returned to the calendar, with no intervening action or debate.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 1016), as amended, was read the third time and passed, as follows:

H.R. 1016

Resolved, That the bill from the House of Representatives (H.R. 1016) entitled ''An Act to amend title 38, United States Code, to provide advance appropriations authority for certain accounts of the Department of Veterans Affairs, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Health Care Budget Reform and Transparency Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Title 38, United States Code, authorizes the Secretary of Veterans Affairs to furnish hospital and domiciliary care, medical services, nursing home care, and related services to eligible and enrolled veterans, but only to the extent that appropriated resources and facilities are available for such purposes.

(2) For 19 of the past 22 fiscal years, funds have not been appropriated for the Department of Veterans Affairs for the provision of health care as of the commencement of the new fiscal year, causing the Department great challenges in planning and managing care for enrolled veterans, to the detriment of veterans.

(3) The cumulative effect of insufficient, late, and unpredictable funding for the Department for health care endangers the viability of the health care system of the Department and impairs the specialized health care resources the Department requires to maintain and improve the health of sick and disabled veterans.

(4) Appropriations for the health care programs of the Department have too often proven insufficient over the past decade, requiring the Secretary to ration health care and Congress to approve supplemental appropriations for those programs.

(5) Providing sufficient, timely, and predictable funding would ensure the Government meets its obligation to provide health care to sick and disabled veterans and ensure that all veterans enrolled for health care through the Department have ready access to timely and high quality care.

(6) Providing sufficient, timely, and predictable funding would allow the Department to properly plan for and meet the needs of veterans.

SEC. 3. TWO-FISCAL YEAR BUDGET AUTHORITY FOR CERTAIN MEDICAL CARE ACCOUNTS OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) TWO-FISCAL YEAR BUDGET AUTHORITY.—

(1) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by inserting after section 113 the following new section:

''§ 113A. Two-fiscal year budget authority for certain medical care accounts

''(a) IN GENERAL.—Beginning with fiscal year 2011, new discretionary budget authority provided in an appropriations Act for the appropriations accounts of the Department specified in subsection (b) shall be made available for the fiscal year involved, and shall include new discretionary budget authority for such appropriations accounts that first become available for the first fiscal year after such fiscal year.

''(b) MEDICAL CARE ACCOUNTS.—The medical care accounts of the Department specified in this subsection are the medical care accounts of the Veterans Health Administration as follows:

''(1) Medical Services.

''(2) Medical Support and Compliance.

''(3) Medical Facilities.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of such title is amended by inserting after the item relating to section 113 the following new item:

''113A. Two-fiscal year budget authority for certain medical care accounts.''.

SEC. 4. COMPTROLLER GENERAL OF THE UNITED STATES STUDY ON ADEQUACY AND ACCURACY OF BASELINE MODEL PROJECTIONS OF THE DEPARTMENT OF VETERANS AFFAIRS FOR HEALTH CARE EXPENDITURES.

(a) STUDY OF ADEQUACY AND ACCURACY OF BASELINE MODEL PROJECTIONS.—The Comptroller General of the United States shall conduct a study of the adequacy and accuracy of the budget projections made by the Enrollee Health Care Projection Model, its equivalent, or other methodologies, as utilized for the purpose of estimating and projecting health care expenditures of the Department of Veterans Affairs (in this section referred to as the ''Model'') with respect to the fiscal year involved and the subsequent four fiscal years.

(b) REPORTS.—

(1) IN GENERAL.—Not later than the date of each year in 2011, 2012, and 2013, on which the President submits the budget request for the next fiscal year under section 1105 of title 31, United States Code, the Comptroller General shall submit to the appropriate committees of Congress and to the Secretary a report.

(2) ELEMENTS.—Each report under this paragraph shall include, for the fiscal year beginning in the year in which such report is submitted, the following:

(A) A statement whether the amount requested in the budget of the President for expenditures of the Department for health care in such fiscal year is consistent with anticipated expenditures of the Department for health care in such fiscal year as determined utilizing the Model.

(B) The basis for such statement.

(C) Such additional information as the Comptroller General determines appropriate.

(3) AVAILABILITY TO THE PUBLIC.—Each report submitted under this subsection shall also be made available to the public.

(4) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committees on Veterans' Affairs, Appropriations, and the Budget of the Senate; and

(B) the Committees on Veterans' Affairs, Appropriations, and the Budget of the House of Representatives.

TO AMEND TITLE XI OF THE SOCIAL SECURITY ACT

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 3325 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3325) to amend title XI of the Social Security Act to reauthorize for 1 year the Work Incentives Planning and Assistance program and the Protection and Advocacy for Beneficiaries of Social Security program.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; further that any statements be printed in the RECORD.

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

The bill (H.R. 3325) was ordered to a third reading, was read the third time, and passed.

CAMPUS FIRE SAFETY MONTH

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 40, and the Senate proceed to its immediate consideration.

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

The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 40) designating September 2009 as ''Campus Fire Safety Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 40) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 40

Whereas, each year, States across the Nation formally designate September as Campus Fire Safety Month;

Whereas, since January 2000, at least 129 people, including students, parents, and children have died in campus-related fires;

Whereas more than 80 percent of those deaths occurred in off-campus residences;

Whereas a majority of college students in the United States live in off-campus residences;

Whereas a number of fatal fires have occurred in buildings in which the fire safety systems had been compromised or disabled by the occupants;

Whereas automatic fire alarm systems provide the early warning of a fire that is necessary for occupants and the fire department to take appropriate action;

Whereas automatic fire sprinkler systems are a highly effective method of controlling or extinguishing a fire in its early stages, protecting the lives of the building's occupants;

Whereas many college students live in off-campus residences, fraternity and sorority housing, and residence halls that are not adequately protected with automatic fire sprinkler systems and automatic fire alarm systems;

Whereas fire safety education is an effective method of reducing the occurrence of fires and reducing the resulting loss of life and property damage;

Whereas college students do not routinely receive effective fire safety education during their time in college;

Whereas it is vital to educate young people in the United States about the importance of fire safety to help ensure fire-safe behavior by young people during their college years and beyond; and

Whereas, by developing a generation of fire-safe adults, future loss of life from fires may be significantly reduced: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2009 as ''Campus Fire Safety Month''; and

(2) encourages administrators of institutions of higher education and municipalities across the country—

(A) to provide educational programs to all students during September and throughout the school year;

(B) to evaluate the level of fire safety being provided in both on- and off-campus student housing; and

(C) to ensure fire-safe living environments through fire safety education, installation of fire suppression and detection systems, and the development and enforcement of applicable codes relating to fire safety.

AGENT ORANGE AWARENESS MONTH

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 248, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 248) designating the month of August 2009 as ''Agent Orange Awareness Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 248) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 248

Whereas between 1964 and 1973, 8,744,000 men and women bravely served our Nation in the Vietnam War;

Whereas an estimated 2,600,000 service men and women may have been exposed to Agent Orange in Vietnam;

Whereas Agent Orange is an herbicide that was used during the Vietnam War to kill unwanted plant life and remove leaves from trees that provided cover for the enemy;

Whereas the United States military sprayed more than 19,000,000 gallons of herbicide throughout South Vietnam, with Agent Orange accounting for approximately 11,000,000 gallons of this amount;

Whereas Agent Orange is an extremely toxic substance that contains dioxin;

Whereas the Department of Veterans Affairs has recognized that certain cancers and other health problems are associated with exposure to Agent Orange;

Whereas John Baldacci, the Governor of the State of Maine, has proclaimed August 2009 as ''Agent Orange Awareness Month'' for that State;

Whereas the State of Alaska has 76,000 veterans, the highest population of veterans per capita, with 26,000 of these being veterans of the Vietnam War; and

Whereas, as a Nation, we are deeply grateful and thankful for those men and women who bravely served during the Vietnam War: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of August 2009 as ''Agent Orange Awareness Month'';

(2) calls attention to those veterans who were exposed to Agent Orange and the adverse effects that such exposure has had on their health;

(3) recognizes the sacrifices that our veterans and servicemembers have made and continue to make on behalf of our great Nation, especially those veterans who were exposed to Agent Orange;

(4) reaffirms its commitment to our Nation's veterans; and

(5) does not, by this resolution, authorize, support, or settle any claim against the United States.

HONORING U.S. NAVY PILOT CAPTAIN MICHAEL SCOTT SPEICHER

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 249, which was submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 249) honoring United States Navy Pilot Captain Michael Scott Speicher who was killed in Operation Desert Storm.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 249) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 249

Whereas more than 88,000 Americans remain missing from World War II, the Korean War, the Cold War, the Vietnam War, and the wars in Iraq and Afghanistan;

Whereas the people of the United States honor Captain Michael Scott Speicher;

Whereas Captain Speicher was shot down in Wadi Thumayal while flying an F/A-18 Hornet fighter jet on January 16, 1991, the first night of the Persian Gulf War;

Whereas Captain Speicher's fate remained unknown until July 2009, when United States Marines stationed in Anbar recovered his remains in an unmarked desert grave;

Whereas Captain Speicher made the ultimate sacrifice for his country; and

Whereas Captain Speicher's wife and 2 children have sacrificed to the greatest extent, and the people of the United States honor them by commemorating Captain Speicher: Now, therefore, be it

Resolved, That the Senate—

(1) honors Captain Michael Scott Speicher for his service and sacrifice, and for giving his life fighting for the Nation in Operation Desert Storm;

(2) honors Captain Speicher's family for their love and undying strength and determination to bring Captain Speicher home;

(3) encourages the Department of Defense to continue the Nation's efforts to provide clear and accurate information about what happened to our fallen heroes, to determine the nature and cause of Captain Speicher's death, and to continue accounting for all who remain missing in action; and

(4) honors the United States Navy, the United States Marine Corps, the Defense Intelligence Agency, and the Department of Defense for their efforts to bring Captain Speicher home.

AUTHORIZING TESTIMONY AND LEGAL REPRESENTATION

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 250, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 250) to authorize testimony and legal representation in People of the State of California v. Amir Shervin.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution concerns a request for testimony and representation in a criminal action in Superior Court in Alameda County, CA. In this action, the defendant is charged by the State of California with resisting arrest arising out of an attempt by the police to serve him with a warrant requiring his court appearance on the charge that, in September 2006, he battered an employee in the reception area of the San Francisco office of Senator BARBARA BOXER.

The prosecution has sought testimony from Senator BOXER's employee concerning the events that transpired in the reception area of her San Francisco office. This resolution would authorize her employee to testify in this action, with representation by the Senate Legal Counsel of him and any other employee of Senator BOXER's office from whom testimony may be necessary.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 250) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 250

Whereas, in the case of *People of the State of California* v. *Amir Shervin*, No. 05–221878, pending in Superior Court in Alameda County, California, the prosecution has sought testimony from Eric Vizcaino, an employee of Senator Barbara Boxer;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent an employee of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Eric Vizcaino and any other employee of Senator Boxer's office from whom testimony may be necessary are authorized to testify in the case of *People of the State of California* v. *Amir Shervin*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent employees of Senator Boxer's office in connection with the testimony authorized in section one of this resolution.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the majority leader, pursuant to 22 U.S.C. 2761, as amended, appoints the following Senators as delegates of the British-American Interparliamentary Group conference during the 111th Congress: the Honorable BERNARD SANDERS of Vermont, and the Honorable ROLAND BURRIS of Illinois.

The Chair, on behalf of the President pro tempore, and upon the recommendation of the Republican leader, pursuant to 22 U.S.C. 2761, as amended, appoints the following Senator as a delegate of the British-American Interparliamentary Group conference during the 111th Congress: the Honorable JUDD GREGG of New Hampshire.

The Chair, on behalf of the majority leader, pursuant to Public Law 101–549, appoints the following individual to the Board of Directors of the Mickey Leland National Urban Air Toxics Research Center: Shawn Gerstenberger of Nevada.

Mr. WHITEHOUSE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Colorado is recognized.

Mr. BENNET. I thank the Chair.

(The remarks of Mr. BENNET pertaining to the introduction of S. 1613 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

ORDERS FOR FRIDAY, AUGUST 7, 2009

Mr. BENNET. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Friday, August 7; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

PROGRAM

Mr. BENNET. Mr. President, there will be no rollcall votes during Friday's session of the Senate. The next vote will occur at approximately 5:30 p.m. on Tuesday, September 8.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNET. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 10:01 p.m., adjourned until Friday, August 7, 2009, at 9:30 a.m.

NOMINATIONS

Executive Nominations Received by the Senate:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JIM R. ESQUEA, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE VINCENT J. VENTIMIGLIA, JR., RESIGNED.

DEPARTMENT OF STATE

JOSE W. FERNANDEZ, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF STATE (ECONOMIC, ENERGY, AND BUSINESS AFFAIRS), VICE DANIEL S. SULLIVAN, RESIGNED.

WILLIAM E. KENNARD, OF THE DISTRICT OF COLUMBIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE EUROPEAN UNION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

ALAN D. SOLOMONT, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SPAIN, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ANDORRA.

LEGAL SERVICES CORPORATION

ROBERT JAMES GREY, JR., OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2011, VICE BERNICE PHILLIPS, TERM EXPIRED.

JOHN GERSON LEVI, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2011, VICE HERBERT S. GARTEN, TERM EXPIRED.

MARTHA L. MINOW, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2011, VICE DAVID HALL, TERM EXPIRED.

JULIE A. REISKIN, OF COLORADO, TO BE MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2010, VICE THOMAS R. MEITES, TERM EXPIRED.

GLORIA VALENCIA-WEBER, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2011, VICE SARAH M. SINGLETON, TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

BENJAMIN B. TUCKER, OF NEW YORK, TO BE DEPUTY DIRECTOR FOR STATE, LOCAL, AND TRIBAL AFFAIRS, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE SCOTT M. BURNS.

DEPARTMENT OF JUSTICE

KENYEN RAY BROWN, OF ALABAMA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF ALABAMA FOR THE TERM OF FOUR YEARS, VICE DEBORAH JEAN JOHNSON RHODES, RESIGNED.

NEIL H. MACBRIDE, OF VIRGINIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS, VICE CHARLES P. ROSENBERG, RESIGNED.

BENJAMIN B. WAGNER, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS, VICE MCGREGOR WILLIAM SCOTT, RESIGNED.

STEVEN GERARD O'DONNELL, OF RHODE ISLAND, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF RHODE ISLAND FOR THE TERM OF FOUR YEARS, VICE BURTON STALLWOOD.

THE JUDICIARY

JANE BRANSTETTER STRANCH, OF TENNESSEE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE MARTHA CRAIG DAUGHTREY, RETIRED.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

DAVID C. GOMPERT, OF VIRGINIA, TO BE PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE, VICE DONALD M. KERR, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. JOHN S. WELCH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C, SECTION 271:

To be rear admiral (lower half)

CAPTAIN DANIEL B. ABEL
CAPTAIN VINCENT B. ATKINS
CAPTAIN STEPHEN E. MEHLING
CAPTAIN KARL L. SCHULTZ
CAPTAIN SANDRA L. STOSZ
CAPTAIN CARI B. THOMAS
CAPTAIN CHRISTOPHER J. TOMNEY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER SECTION 211(A)(1), TITLE 14, U.S. CODE:

To be lieutenant

THOMAS J. RILEY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER SECTION 211(A)(1), TITLE 14, U.S. CODE:

To be lieutenant

SHADRACK L. SCHEIRMAN

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER SECTION 211(A)(1), TITLE 14, U.S. CODE:

To be lieutenant

CHAD R. HARVEY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER SECTION 211(A)(1), TITLE 14, U.S. CODE:

To be lieutenant

MICHELE L. SCHALLIP

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

CAMERON D. WRIGHT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ANDRE L. BROWN

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

KATHLEEN E. COFFEY
THOMAS G. CROYMANS
PAUL D. HERNANDEZ
ASHOK V. KUMAR
STANLEY N. THORNTON
BRIAN R. TRENDA

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

PAUL C. KERR

To be lieutenant commander

JAMES D. COLLINS
JAMES B. LINDBERG
JEFFREY W. SEWELL
CHARISSE J. WARD
BRUCE A. WATERMAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

SCOTT A. ANDERSON
GREGORY R. MENARD
HIRAM THOMPSON, JR.
GWENDOLYN WILLIS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

KEITH R. BARKEY
CHAD M. BROOKS
ANDRE L. COLEMAN
ANDREW B. CRIGLER
EILEEN J. DANDREA
MICHAEL D. DYSART
JOSEPH L. GREESON
TROY D. HAMILTON
DEAN L. HANSEN
CHRISTOPHER M. HODRICK
DAVID I. KANG
ERIK J. KARLSON
SCOTT R. KING
AARON E. KOTTAS
KIRK A. LAGERQUIST
BRIAN T. LINDOERFER
STEVEN J. MAURO
DAVID H. MCALISTER
MATTHEW MCCANN
JEFFREY E. MCCOY
JOHN D. MILLINOR
SUZANNE B. MONTGOMERY
THOMAS M. MOSKAL
MATTHEW C. MOTSKO
KEVIN M. NORTON
TABITHA D. PIERZCHALA
DARRELL A. REYNARD
WHITLEY H. ROBINSON
ERIN H. SANDERS
JOEL K. SENSENIG
KEMIT W. SPEARS
STEVEN J. STASICK
ALLEN R. SULLIVAN
RYAN M. TIBBETTS
CHRISTOPHER R. VIA
BURR M. VOGEL
JAMES R. WATTS
JASON D. ZEDA

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

PAUL S. ANDERSON
RAY A. BAILEY
SHAUN S. BROWN
JACK L. CARVER
GREGORY C. CATHCART
JAMES M. EDWARDS
YOLANDA L. A. GILLEN
JAMES A. GOODBOW
RUSSELL P. GRAEF
JOHN M. HAKANSON
WILLIAM J. HOLIMAN, JR.
THOMAS R. HUNT, JR.
JAMES L. JOHNSON
JOHN A. KALANTZIS
MYUNG B. KIM
CARL P. KOCH
STEPHEN M. LEE
CHRISTOPHER MERRIS
BARRY A. METZGER
EMILE G. MOURED
STEVEN T. ORREN
JOHN B. OWEN
JAMES H. PITTMAN
GREG T. SCHLUTER
DAVID A. SHIRK
KEITH J. SHULEY
MICHAEL W. SNEATH
RONALD P. STAKE
THOMAS J. WALCOTT
MICHAEL D. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ROBIN M. ALLEN
MICHAEL V. BENEDETTO
WILLIAM D. BOOTH
EUGENE S. CASH
DANIEL K. CLOUSER
CURTIS A. CULWELL
STANLEY S. DIMIRACK
FREDERICK M. DINI
DAVID E. DOYLE
PAMELA C. DOZIER
JOHN S. DUENAS
CHIPMAN S. ELLIOTT
MARK M. ESTES
JOSE L. FELIZ
JASON B. FITCH
MARK R. GARRIGUS
NICOLA M. GATHRIGHT
EDMOND J. GAWARAN
TONY V. GILES
TROY M. GRONBERG
MICHAEL W. HERYFORD
MATTHEW P. HOFFMAN
JULIE M. HUNTER
MICHAEL N. JEFFERSON
JASON M. JOHNSON
DOUGLAS S. MACKENZIE
JACQUELINE M. MEYER
MICHAEL E. MOORE
THOMAS J. NEVILLE III
DANIEL L. NORTON
ARVIS D. OWENS
ROBERT D. PEREZ
KRISTIN M. PIOTROWSKI
CRAIG A. RETZLAFF
MARK A. REYES
MARK C. RICE
ALLEN E. SANFORD
JOHN G. TENCER III
JOEL D. M. TIU
AARON S. TRAVER
JULIE M. TREANOR
MILTON W. TROY III
DENNIS J. TURNER
DONALD C. TYER
BRAD W. VETTING
LEROY H. WEBER
EDWIN G. WHITING
BRETT K. WILCOX
JOSEPH P. WOODS
SARAH L. WRIGHT
SCOTT Y. YAMAMOTO

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JAMES D. ABBOTT
PATRICK K. AMERSBACH
LISA M. BAKER
ANTHONY V. BEER
KRISTEN M. BIRDSONG
BARBARA L. BREUNINGER
TRACI L. BROOKS
ABE J. BROWN, JR.
CAROL A. BURROUGHS
BRENT A. BUSHEY
KEVIN P. BUSS
PETER D. CHAREST
CAROLYN M. CURRIE
JONATHAN A. DEINARD
CYNTHIA T. FERGUSON
JAMES D. FOUNTAIN
KEITH J. GOLDSTON
DEBRA A. HAGAN
KATHLEEN A. HINZ
JENNIFER L. A. HUCK
CHRISTOPHER M. JACK
ROSLYN J. JACKSON
KELLEY C. JAMES
CHRISTINA A. JAMIESON
VICKI L. JERNIGAN
JULIA L. KING
MICHAEL S. KOHLER
ANGELA R. MACON
CATHERINE M. MCNEALJONES
BARBARA A. MULLEN
CHRISTOPHER OUDEKERK
GEORGE G. REICHERT
VANESSA D. RICHARDS
CATHERINE E. RILEY
ERIN C. ROBERTSON
ELIZABETH K. SAYRE
TANYA B. SINCLAIR
FRANCES C. SLONSKI
CHRISTOPHER R. SMITH
DENNIS L. SPENCE
KENNETH L. SPENCE
GERALD W. SPRINGER II
JOSEPH L. TAYLOR
KIMBERLY A. TAYLOR
VALORIE A. TOTH
EVELYN J. TYLER
KURTT H. WALTON
TYNAH R. WEST
AMY E. WOOTTEN
ROBERT W. ZURSCHMIT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JASON T. BALTIMORE
MATTHEW L. BERAN
JOSEPH F. CARILLI, JR.
DANIEL CIMMINO
JUSTIN B. CLANCY
TRACY L. CLARK
BRUCE A. GRAGERT
JASON S. GROVER
JOSEPH G. HOELZ
ANDREW R. HOUSE
FRANKIE D. HUTCHISON
DOMINIC J. JONES
BRANDON S. KEITH
GARY S. LARSON
THOMAS F. LEARY
DAVID T. LEE
IRVE C. LEMOYNE, JR.
MICHAEL J. LUKEN
JONATHAN M. MCLEOD
STEVEN E. MILEWSKI
JAMES T. MILLS
ROBERT P. MONAHAN, JR.
JAMES A. OUELLETTE, JR.
WILLIAM G. PERDUE
LIA M. REYNOLDS
AARON C. RUGH
SAMUEL A. SMITH
IAN S. WEXLER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JOEL R. BEALER
LYNN R. BINKLEY
RONALD D. BOLING
THOMAS Z. BOSY
RODERICK L. BOYCE
REGINALD C. BROWN
WILLIAM D. CARROLL
MATTHEW CASE
GERALD T. DELONG
JODY A. DREYER
BRYAN S. DUPREE
PAUL B. DURAND
STEPHEN C. ELGIN
BRIDGETTE M. FABER
ALFREDO T. FERNANDEZ, JR.
SIDNEY G. FOOSHEE
MATHEW C. GARBER
EUGENE K. GARLAND
JENNIFER R. GELKER
DUWAYNE S. GRIEPENTROG
JESSIE E. GROSS
MARK E. HEIM
DAVID C. HICKS
JASON J. HOLMES
WILLIAM J. HUGHES IV
SHANNON J. JOHNSON
CHRISTOPHER J. KARDOHELY
BRADLEY J. KAROVIC
MARTIN W. KERR
BRADLEY J. KILLENBECK
LINDA G. KIMSEY
DAVID W. LABRIE
TODD J. LAUBY
JAMES LYNCH
RANDY L. MARTINEZ
RAYMOND W. MCCLARY III
HENRY V. MCCRACKING
KEVIN J. MCGOWAN
DENISE E. MILTON
DOUGLAS M. MONETTE
NORMAN K. MOSER
STEVEN W. NEWELL
SHERI B. PARKER
JAY J. PELOQUIN
RAFAEL C. PEREZ
PAUL W. PRUDEN
VALERIE J. RIEGE
DEBORAH E. ROBINSON
CHAD E. ROE
ALAN M. ROSS
SCOTT P. ROSSI
KENNETH P. SAUSEN
MICHAEL P. SMITH
DOUGLAS E. STEPHENS

TONY J. STOCKTON
FRANK H. STUBBS III
ENRIQUE S. TORRES
JOHNATHAN E. WARE
GARY D. WEST
DEBORAH J. WHITE
RICHARD G. ZEBER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

MARTIN J. ANERINO
WILLIE S. CHAO
DAVID M. CRAIG
PETER B. DODSON
SEAN P. DONOVAN
RAYNESE S. FIKES
HEATHER L. GNAU
KELLY M. GOODIN
JULIET R. HOFFMAN
THOMAS B. JORDAN
PAUL I. LIM
FRANK X. MAC
IVO A. MILLER
KEVIN D. MORSE
SHAY S. RAZMI
CHRISTOPHER O. REGISTER
MELISSA L. RUFF
RAOUL H. SANTOS
AARON P. SARATHY
MARTHA S. SCOTTY
WALTER H. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ROGER S. AKINS
OLADAPO A. AKINTONDE
TERESA M. ALLEN
JARED L. ANTEVIL
JOHN C. ARNOLD
DEAN B. ASHER
SAIRA N. ASLAM
DAVID C. ASSEFF
LUKE H. BALSAMO
MICHAEL J. BARKER
GLEN W. BARRISFORD
JOHN T. BASSETT
ROBERT M. BEER
ERIC E. BELIN
RODD J. BENFIELD
JOHN R. BENJAMIN
WILLIAM R. BERTUCCI
TRISHA C. BEUTE
MICHAEL C. BIONDI
SEAN D. BIRMINGHAM
KRISTA A. BOCKSTAHLER
RONDA D. BOUWENS
RODNEY D. BOYUM
ERIC M. BUENVIAJE
MICHAEL CACKOVIC
WAYNE A. CARDONI
MICHAEL R. CARR
KERI L. CARSTAIRS
SHAUN D. CARSTAIRS
DAVID W. CHAMP
MICHAIL CHARISSIS
NORAK P. CHHIENG
ARRON A. CHO
HELEN M. CHUN
TONY S. CLINTON
DANIEL J. COMBS
GEORGE S. CONLEY
CHRISTOPHER B. CORNELISSEN
CHARLES E. CRAVEN
MARCELO C. DARABOS
GERARD DEMERS
WILLIAM R. DENNIS
BRUCE R. DESCHERE
ILLY DOMINITZ
JOHN W. DORUNDA
JENNIFER C. DRISCOLL
WILLIAM D. DUTTON
CHRISTOPHER I. ELLINGSON
ALEXIS T. A. EPPERLY
JENNIFER M. ESPIRITU
KIMBERLY E. FAGEN
GREGORY M. FRANCISCO
MICHAEL S. GALITZ
JESSE R. GEIBE
ANDREW B. GENTRY
BARRY C. GENTRY
YEVSEY M. GOLDBERG
STEFAN M. GROETSCH
RAMIRO GUTIERREZ
DAVID E. GWINN
SCOTT J. HABAKUS
STEVEN R. HANLING
MARSHAL F. HARPE
JASON O. HEATON
JOSE HENAO
CHRISTOPHER M. HERZER
RICHARD R. HIRASUNA
MATTHEW J. HOFFMAN
TODD HORTON
BYRON J. HUMBLE
TIPTON D. Q. HUTCHESON
MINAL D. JACKSON
MICHAEL B. JACOBS
GEOFFREY S. JACOBY
JAMES W. KECK
TYPHANIE A. KINDER
STEVEN T. KNAUER
PAMELA L. KRAHL
LUISA C. KROPCHO
CHRISTOPHER T. KUZNIEWSKI
KATHY L. KYSER
TODD R. LAROCK
KELLY M. LATIMER
JONATHAN M. LIESKE
CHARLES G. MARGUET
LUIS E. MARQUEZ
GREGORY N. MATWIYOFF
MICHAEL L. MCCLAM
SCOTT D. MCCLELLAN
KELLY L. MCCOY
BRIAN W. MECKLENBURG
MICHAEL J. MONSOUR
WON K. MOON
KRISTINA V. MOROCCO
GEORGE P. NANOS III
CHRISTOPHER S. NASIN
JOEL NATIONS
MICHAEL T. NEWMAN
ROBERT J. OBRIAN
BRIAN A. ONEAL
ETHEL L. ONEAL
CHRISTOPHER A. ORSELLO
CARL E. PETERSEN
SHAUN N. PETERSON
JENNIFER L. PIERCE
LAWRENCE H. POTTER
BLAINE M. POWELL
SUSAN C. POWERS
MATTHEW T. PROVENCHER
TERRANCE L. PYLES
TIMOTHY M. QUAST
ALFREDO R. RAMIREZ
CHARLES W. RENINGER III
DELORES Y. RHODES
RICARDO L. RIEGODEDIOS
BRIAN R. RILEY
ALICIA R. SANDERSON
ANTHONY J. SCHERSCHEL
DAVID T. SCHRODER
GILBERT SEDA
MICHAEL SEXTON
FOREST R. SHEPPARD
PETER R. SHUMAKER
JOHN W. SISSON
BRYAN M. SPALDING
CHRISTOPHER M. STAFFORD
CYNTHIA L. TALBOT
NICKI S. TARANT
NIMFA C. TENEZAMORA
RONALD B. TESORIERO
KEITH E. THOMPSON
JOHN D. TRASK
ANTHONY TUCKER
MARK H. TUCKER
JOHN VANSLYKE
EDWARD S. VOKOUN
ERICH F. WEDAM
DAVID R. WHIDDON
CARLOS D. WILLIAMS
LEILA S. WILLIAMS
MICHAEL E. WILLIAMS
GORDON G. WISBACH
MICHAEL J. YABLONSKY
TINGWEI YANG

THE JUDICIARY

EDWARD MILTON CHEN, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE MARTIN J. JENKINS, RESIGNED.

DOLLY M. GEE, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE GEORGE P. SCHIAVELLI, RESIGNED.

RICHARD SEEBORG, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE MAXINE M. CHESNEY, RETIRED.

THOMAS I. VANASKIE, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE FRANKLIN S. VAN ANTWERPEN, RETIRED.

CONFIRMATION

Executive nomination confirmed by the Senate, Thursday, August 6, 2009:

SUPREME COURT OF THE UNITED STATES

SONIA SOTOMAYOR, OF NEW YORK, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES.

Daily Digest

HIGHLIGHTS

Senate confirmed the nomination of Sonia Sotomayor, to be an Associate Justice of the Supreme Court of the United States.

Senate passed H.R. 3435, CAR Save Program Supplemental Appropriations Act.

Senate

Chamber Action

Routine Proceedings, pages S8891–S9063

Measures Introduced: Sixty bills and seven resolutions were introduced, as follows: S. 1586–1645, S. Res. 245–250, and S. Con. Res. 38. **Pages S8992–94**

Measures Reported:

S. 859, to amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program. (S. Rept. No. 111–70) **Page S8992**

Measures Passed:

CAR Save Program Supplemental Appropriations Act: By 60 yeas to 37 nays (Vote No. 270), Senate passed H.R. 3435, making supplemental appropriations for fiscal year 2009 for the Consumer Assistance to Recycle and Save Program, after taking action on the following amendments proposed thereto: **Pages S8946–67**

Rejected:

Harkin Amendment No. 2300, to limit the provision of vouchers to individuals with adjusted gross incomes of less than $50,000 or joint filers with adjust gross incomes of less than $75,000. (By 65 yeas to 32 nays (Vote No. 263), Senate tabled the amendment.) **Pages S8946–48, S8960–61**

By 40 yeas to 57 nays (Vote No. 264), Kyl Modified Amendment No. 2301, in the nature of a substitute. **Pages S8948–50, S8951–52, S8961–62**

By 41 yeas to 56 nays (Vote No. 267), Vitter Amendment No. 2303, to provide for a date certain for termination of the Troubled Asset Relief Program. **Pages S8955–56, S8958–59, S8963**

During consideration of this measure today, Senate also took the following action:

By 46 yeas to 51 nays (Vote No. 265), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate rejected a motion to waive section 306 of the Congressional Budget Act of 1974 with respect to consideration of Gregg Amendment No. 2302, to protect the generations of tomorrow from paying for new cars today. Subsequently, a point of order that the amendment contained matter within jurisdiction of the Committee on the Budget was sustained, and the amendment thus fell. **Pages S8950, S8962**

By 41 yeas to 56 nays (Vote No. 266), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 201 of S. Con. Res. 21, FY08 Congressional Budget Resolution, with respect to Coburn Amendment No. 2304, to provide assistance to charities and families in need. The point of order that the amendment was in violation of section 201 of S. Con. Res. 21, was sustained, and the amendment thus fell. **Pages S8952–55, S8962–63**

By 47 yeas to 50 nays (Vote No. 268), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 201 of S. Con. Res. 21, FY08 Congressional Budget Resolution, with respect to Isakson Amendment No. 2306, to amend the Internal Revenue Code of 1986 to provide an income tax credit for certain home purchases, and to transfer to the Treasury unobligated funds made available by the American Recovery and Reinvestment Act in the amount of the reduction in revenue resulting from such credit. The point of order that the amendment was in violation of section 201 of S. Con. Res. 21, was sustained, and the amendment thus fell. **Pages S8956–58, S8959–60, S8963–64**

By 60 yeas to 37 nays (Vote No. 269), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to waive section 403 (e) (1) of S. Con. Res. 13, FY09 Congressional Budget Resolution, with respect

to the emergency designation provision in the bill. The point of order that the bill was in violation of section 403 (e) (2) of S. Con. Res. 13, FY09 Congressional Budget Resolution, was not sustained.

Page S8964

Veterans Health Care Budget Reform and Transparency Act: Senate passed H.R. 1016, to amend title 38, United States Code, to provide advance appropriations authority for certain accounts of the Department of Veterans Affairs, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 423, Senate companion measure, after agreeing to the committee amendment in the nature of a substitute. **Page S9058**

Subsequently, S. 423 was returned to the Senate calendar. **Page S9059**

WIPA and PABSS Reauthorization Act: Committee on Finance was discharged from further consideration of H.R. 3325, to amend title XI of the Social Security Act to reauthorize for 1 year the Work Incentives Planning and Assistance program and the Protection and Advocacy for Beneficiaries of Social Security program, and the bill was then passed, clearing the measure for the President.

Page S9059

Campus Fire Safety Month: Committee on the Judiciary was discharged from further consideration of S. Res. 40, designating September 2009 as ''Campus Fire Safety Month'', and the resolution was then agreed to. **Pages S9059–60**

Agent Orange Awareness Month: Senate agreed to S. Res. 248, designating the month of August 2009 as ''Agent Orange Awareness Month''.

Page S9060

Honoring United States Navy Pilot Captain Michael Scott Speicher: Senate agreed to S. Res. 249, honoring United States Navy pilot Captain Michael Scott Speicher who was killed in Operation Desert Storm. **Page S9060**

Authorizing Legal Representation: Senate agreed to S. Res. 250, to authorize testimony and legal representation in *People of the State of California v. Amir Shervin.* **Pages S9060–61**

Appointments:

British-American Interparliamentary Group: The Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, pursuant to 22 U.S.C. 2761, as amended, appointed the following Senators as delegates of the British-American Interparliamentary Group conference during the 111th Congress: Senators Sanders and Burris. **Page S9061**

British-American Interparliamentary Group: The Chair, on behalf of the President pro tempore, and upon the recommendation of the Republican Leader, pursuant to 22 U.S.C. 2761, as amended, appoints the following Senator as a delegate of the British-American Interparliamentary Group conference during the 111th Congress: Senator Gregg.

Page S9061

Mickey Leland National Urban Air Toxics Research Center: The Chair, on behalf of the Majority Leader, pursuant to Public Law 101–549, appointed the following individual to the Board of Directors of the Mickey Leland National Urban Air Toxics Research Center: Shawn Gerstenberger of Nevada.

Page S9061

Signing Authority—Agreement: A unanimous-consent agreement was reached providing that the Majority Leader be authorized to sign any duly enrolled bills or joint resolutions through Friday, August 7, 2009. **Page S8967**

Nomination Confirmed: Senate confirmed the following nomination:

By 68 yeas 31 nays (Vote No. EX. 262), Sonia Sotomayor, of New York, to be an Associate Justice of the Supreme Court of the United States.

Pages S8896–S8946, S9063

Nominations Received: Senate received the following nominations:

Jim R. Esquea, of New York, to be an Assistant Secretary of Health and Human Services.

Jose W. Fernandez, of New York, to be an Assistant Secretary of State (Economic, Energy, and Business Affairs).

William E. Kennard, of the District of Columbia, to be Representative of the United States of America to the European Union, with the rank and status of Ambassador.

Alan D. Solomont, of Massachusetts, to be Ambassador to Spain, and to serve concurrently and without additional compensation as Ambassador to Andorra.

Robert James Grey, Jr., of Virginia, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2011.

John Gerson Levi, of Illinois, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2011.

Martha L. Minow, of Illinois, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2011.

Julie A. Reiskin, of Colorado, to be Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2010.

Gloria Valencia-Weber, of New Mexico, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2011.

Benjamin B. Tucker, of New York, to be Deputy Director for State, Local, and Tribal Affairs, Office of National Drug Control Policy.

Kenyen Ray Brown, of Alabama, to be United States Attorney for the Southern District of Alabama for the term of four years.

Neil H. MacBride, of Virginia, to be United States Attorney for the Eastern District of Virginia for the term of four years.

Benjamin B. Wagner, of California, to be United States Attorney for the Eastern District of California for the term of four years.

Steven Gerard O'Donnell, of Rhode Island, to be United States Marshal for the District of Rhode Island for the term of four years.

Jane Branstetter Stranch, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

David C. Gompert, of Virginia, to be Principal Deputy Director of National Intelligence.

Edward Milton Chen, of California, to be United States District Judge for the Northern District of California.

Dolly M. Gee, of California, to be United States District Judge for the Central District of California.

Richard Seeborg, of California, to be United States District Judge for the Northern District of California.

Thomas I. Vanaskie, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

8 Coast Guard nominations in the rank of admiral.

Routine lists in the Army, Coast Guard, and Navy. **Pages S9061–63**

Messages from the House: **Pages S8990–91**

Executive Communications: **Page S8991**

Petitions and Memorials: **Pages S8991–92**

Executive Reports of Committees: **Page S8992**

Additional Cosponsors: **Pages S8994–97**

Statements on Introduced Bills/Resolutions: **Pages S8997–S9047**

Additional Statements: **Pages S8986–90**

Notices of Hearings/Meetings: **Page S9047**

Authorities for Committees to Meet: **Page S9047**

Privileges of the Floor: **Pages S9047–48**

Record Votes: Nine record votes were taken today. (Total—270) **Pages S8945, S8961–64, S8967**

Adjournment: Senate convened at 9:30 a.m. and adjourned at 10:01 p.m., until 9:30 a.m. on Friday, August 7, 2009. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S9061.)

Committee Meetings

(Committees not listed did not meet)

AVIATION SAFETY

Committee on Commerce, Science, and Transportation: Subcommittee on Aviation Operations, Safety, and Security concluded a hearing to examine aviation safety, focusing on the relationship between network airlines and regional airlines, after receiving testimony from Steve Dickson, Delta Air Lines, Atlanta, Georgia; Don Gunther, Continental Airlines, Inc., Houston, Texas; Peter M. Bowler, American Eagle Airlines, Inc., Fort Worth, Texas; and Phil Trenary, Pinnacle Airlines Corp., Memphis, Tennessee.

SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine waste, fraud, and abuse in the Small Business Innovation Research (SBIR) Program, focusing on successes and challenges, data collection issues that affect program monitoring and evaluation, and how agencies make eligibility determinations for the program, after receiving testimony from Patricia A. Dalton, Managing Director, Natural Resources and Environment, Government Accountability Office; Thomas J. Howard, Acting Inspector General, National Aeronautics and Space Administration; Allison C. Lerner, Inspector General, National Science Foundation; and Alfred J. Longhi, Jr., New York, New York.

NOMINATIONS

Committee on Energy and Natural Resources: Committee concluded a hearing to examine the nominations of John R. Norris, of the District of Columbia, to be a Member of the Federal Energy Regulatory Commission for the remainder of the term expiring June 30, 2012, who was introduced by Senators Grassley and Harkin, Jose Antonio Garcia, of Florida, to be Director of the Office of Minority Economic Impact, Department of Energy, who was introduced by Senators Nelson (FL) and Martinez, and Joseph G. Pizarchik, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, after the nominees testified and answered questions in their own behalf.

CLIMATE CHANGE AND CLEAN ENERGY

Committee on Environment and Public Works: Committee concluded a hearing to examine climate change and clean energy, after receiving testimony from Jon Wellinghoff, Chairman, Federal Energy

Regulatory Commission; David Sandalow, Assistant Secretary of Energy for Policy and International Affairs; Thomas L. Strickland, Assistant Secretary of the Interior for Fish, Wildlife and Parks; Fred Krupp, Environmental Defense Fund, New York, New York; and William J. Fehrman, MidAmerican Energy Company, Des Moines, Iowa.

BUSINESS MEETING

Committee on Environment and Public Works: Committee ordered favorably reported the nominations of John R. Fernandez, of Indiana, to be Assistant Secretary of Commerce for Economic Development, and Gary S. Guzy, of the District of Columbia, to be Deputy Director of the Office of Environmental Quality.

UNITED STATES POSTAL SERVICE OVERSIGHT

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security concluded an oversight hearing to examine the United States Postal Service, focusing on its financial condition and outlook and the Government Accountability Office's decision to place the Postal Service's financial condition on the High-Risk List, after receiving testimony from John E. Potter, Postmaster General, and David C. Williams, Inspector General, both of the United States Postal Service; Ruth Y. Goldway, Commissioner, Postal Regulatory Commission; Nancy H. Kichak, Associate Director for Strategic Human Resources Policy, Office of Personnel Management; Phillip Herr, Director, Physical Infrastructure Issues, Government Accountability Office; Fredric V. Rolando, National Association of Letter Carriers, William Burrus, American Postal Workers Union, and Dale Goff, National Association of Postmasters of the United States, all of Washington, D.C.; James West, Williams-Sonoma Inc., San Francisco, California; and Mark Suwyn, NewPage Corporation, Miamisburg, Ohio.

BUSINESS MEETING

Committee on Indian Affairs: Committee ordered favorably reported the following business items:

S.J. Res. 14, to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States;

H.R. 1129, to authorize the Secretary of the Interior to provide an annual grant to facilitate an iron working training program for Native Americans, with an amendment; and

S. 443, to transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, with an amendment in the nature of a substitute.

NATIVE HAWAIIAN GOVERNING ENTITY

Committee on Indian Affairs: Committee concluded a hearing to examine S. 1011, to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, after receiving testimony from Sam Hirsch, Deputy Associate Attorney General, Department of Justice; Haunani Apoliona, Office of Hawaiian Affairs, and Micah A. Kane, Hawaiian Homes Commission, both of the State of Hawai'i, and Robin Puanani Danner and Steven J. Glenn, both of the Council for Native Hawaiian Advancement, all of Honolulu; Stuart Minor Benjamin, Duke Law School, Durham, North Carolina; and H. Christopher Bartolomucci, Hogan and Hartson L.L.P., Washington, D.C.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the nominations of David J. Kappos, of New York, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, Steven M. Dettelbach, to be United States Attorney for the Northern District of Ohio, Carter M. Stewart, to be United States Attorney for the Southern District of Ohio, and David Edward Demag, to be United States Marshal for the District of Vermont, all of the Department of Justice.

BUSINESS MEETING

Committee on the Judiciary: Subcommittee on the Constitution ordered favorably reported S.J. Res. 7, proposing an amendment to the Constitution of the United States relative to the election of Senators.

NOMINATIONS

Committee on Small Business and Entrepreneurship: Committee concluded a hearing to examine the nominations of Winslow Lorenzo Sargeant, of Wisconsin, to be Chief Counsel for Advocacy, who was introduced by Senators Feingold and Kohl, and Peggy E. Gustafson, of Illinois, to be Inspector General, who was introduced by Senator McCaskill, both of the Small Business Administration, after the nominees testified and answered questions in their own behalf.

House of Representatives

Chamber Action

Committee Meetings

No committee meetings were held.

Joint Meetings

MOLDOVA ELECTIONS

Commission on Security and Cooperation in Europe: Commission received a briefing to examine Moldova's recent parliamentary elections and their implications for United States-Moldova relations and regional policy, after receiving testimony from Andrei Galbur, Embassy of Moldova, Washington, D.C.; Valentina Cusnir, former Member of Moldova's Parliament, and Nadine Gogu, Independent Journalism Center, both of Chisinau, Moldova; and Louis O'Neil, former Head of the OSCE Mission to Moldova, New York, New York.

COMMITTEE MEETINGS FOR FRIDAY, AUGUST 7, 2009

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Joint Meetings

Joint Economic Committee: to hold hearings to examine the employment situation for July 2009, 9:30 a.m., SD–562.

Next Meeting of the SENATE

9:30 a.m., Friday, August 7

Senate Chamber

Program for Friday: Senate will be in a period of morning business.

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Tuesday, September 8

House Chamber

Program for Tuesday: To be announced.

Congressional Record

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