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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Eternal God, the Lord of life, we love You but not enough. We look to You but depend too often on our own strength. We listen for You but make a lot of noise ourselves at the same time. We try to understand, as long as it doesn't change us more than we desire.

Today, draw our Senators closer to You. Empower our lawmakers to become what You desire them to be. Give them Your continual guidance so that they will console the downhearted and provide deliverance to those held captive by evil. Help our lawmakers to hear Your invitation to move to a higher level of ethical fitness.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 18, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico 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. Mr. President, following leader remarks, the Senate will be in a period of morning business. Senator ROCKEFELLER will then be recognized for as much time as he may consume. Following his remarks, there will be an additional 2 hours of morning business. The majority will control the first hour and the Republicans will control the next hour.

Following morning business, the Senate will resume postcloture debate on the nomination of David Hamilton to be U.S. circuit judge for the Seventh Circuit.

The postcloture debate time expires about 11 p.m. tonight. It is my hope that time will not be necessary because it is basically wasted Senate time.

Yesterday, we were able to reach an agreement to consider S. 1963, the Caregivers and Veterans Omnibus Health Services Act of 2009 upon disposition of the Hamilton nomination. Senators should expect votes in relation to the Coburn amendment and passage of the bill.

CONGRATULATING SENATOR ROBERT BYRD

Mr. REID. Mr. President, when baseball legend Lou Gehrig retired after playing 2,130 consecutive games, every expert drew the same conclusion: this record will never be broken. Of course, they were wrong.

Throughout history, forecasters have sentenced themselves to ridicule for prematurely assuming a skyscraper's height would never be topped, for promising an invention's ingenuity would never be outdone, or for contending an athletic feat would never be surpassed.

Even so, I am willing to risk predicting that many of Senator ROBERT BYRD's records will never be matched. Since coming to the Senate in 1959, Senator BYRD has cast more than 18,500 votes. No one else, past or present, even comes close. He is the only Senator who has ever been elected to nine full terms in this body. He has presided over both the shortest session in Senate history—not even one second long—and presided for the longest continuous period—more than 21 hours. No one has ever served on a Senate Committee longer than Senator BYRD. Just days after being sworn in, he joined the Appropriation Committee he would later chair. He has held the most leadership positions in Senate history, and continues to serve as our President Pro Tempore.

And just moments ago, when this body was gaveled into session, Senator BYRD realized one more unparalleled accomplishment: he has just become the longest-serving Member of Congress in U.S. history.

Every day since January 3, 1953—that is 56 years, 10 months and 16 days—West Virginians have been proud to be presented in Washington, by ROBERT BYRD.

He began his service in the House the same day Alaska became our 49th State, and was months into his Senate service when Hawaii became our 50th.

Senator BYRD has served in this Nation's Congress for more than a quarter of the time it has existed. And he has served in Congress longer than more than a quarter of today's sitting Senators—and the President of the United

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

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States—have been alive. That doesn't even count one Senator who was born just days after his first election to represent West Virginia's Sixth Congressional District, and a second who was born just weeks after that.

A dozen men have called the Oval Office his own while Senator BYRD has called the Capitol building his office.

He twice won every single one of West Virginia's 55 counties. And throughout one of the longest political careers in history, no one ever has defeated ROBERT BYRD in a single election.

But though each one of those campaigns—after each of the 12 times he has taken an oath to represent the people of West Virginia—on every single one of the 20,774 days he has served—he has never taken the privilege for granted.

As a former leader of both the majority and the minority caucuses in the Senate, he knows better than most that legislation is the art of compromise. It is telling that the man who has served here longer than any other American has come to the conclusion that we must work together as partners, not partisans, for the good of our country—and, of course, the State of West Virginia.

He has seen partisanship and bipartisanship; war and peace; recession and recovery; and his perspective is invaluable to the way we carry ourselves as U.S. Senators.

Senator BYRD's legislative accomplishments are many, and he continues to accumulate them. And while those accomplishments fortify his incomparable legacy, he is perhaps best known in this Chamber as the foremost guardian of the Senate's complex rules, procedures and customs.

He has not concerned himself with such precision as a pastime or a mere hobby. He has done so because of the unyielding respect he has for the Senate. And on this momentous occasion, I say to my friend that the Senate returns that unyielding respect to him.

By virtue of his longevity, ROBERT BYRD has known and worked with many of the greats of the United States Senate. By virtue of his integrity, he has long since established himself among the greats.

There will never be another Senator like Senator BYRD, and today's milestone is another record that will never be broken.

Congratulations, ROBERT C. BYRD, an orphan who changed history.

RECOGNITION OF THE MINORITY LEADER.

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

CONGRATULATING SENATOR ROBERT BYRD

Mr. MCCONNELL. Mr. President, it has been nearly 30 years now since Senator BYRD started delivering a series of lectures that ultimately became the book that all of us are familiar with and which all of us admire. And the story of how those lectures came about says a lot about the man who has now served in Congress longer than any other man or woman in the history of our country.

The story goes that it was a quiet Friday morning here in the Senate and Senator BYRD, as the majority leader, went down to the floor without planning to say much of anything at all, except that there wouldn't be any votes that day. But then he looked up to the gallery, and he saw one of his granddaughters up there with some of her classmates, and he thought it might be a good idea if they had something to talk about when they got back to school.

So, quite extemporaneously and quite by happenstance, he delivered a speech to an empty Chamber on the history of the Senate. A week went by, and the same thing happened again. Senator BYRD came to the floor to make some brief statement about the floor business. He looked up to the gallery, and he saw another one of his granddaughters. Of course he couldn't give a history lesson to one and not to another. So he gave another history lesson.

Well, 7 years and about 2 million words later, he stopped giving those history lessons. And now we will always have them. And we are grateful for that, and for this man. ROBERT BYRD once said that what is sometimes considered to be the result of genius is more the result of persistence, perseverance, and hard work. To be a good Senator, he said, one has to work at it. And now, longer than anyone else in our history, he has lived by those words.

Today, ROBERT CARLYLE BYRD sets a record that has been more than 56 years in the making. The records just keep adding up. Three years ago, he became the longest serving Senator in our Nation's history. A few month after that, he became the only person ever elected to nine full terms in the Senate. He has now served in the U.S. Congress for 20,774 days.

He has cast 18,500 votes in the well of this Chamber. He is the longest serving member of the Senate Appropriations Committee. He has presided over the Senate's shortest session and its longest continuous session. He is the only sitting Member of Congress to receive a law degree, a degree that was presented to him by President John F. Kennedy, just one of 12 Presidents that Senator BYRD has served alongside during his distinguished career.

Senator BYRD will tell you that he has been anchored over the years by the values he learned at the feet of his foster parents, by the support and love of his beloved Erma, whom we were all sad to lose, by the U.S. Constitution, and by his faith in God. In a long life, he has known his share of hardships and triumphs. But he has run the race as if to win. He is still at it and we are grateful for his astonishing record of service to the people of West Virginia, to the United States Senate, and to the Nation he loves.

In achieving this latest milestone, Senator BYRD surpasses a former colleague of his—Carl Hayden, another legendary figure who served the people of Arizona in the Senate for 42 years. Carl Hayden was known to many as the ''Silent Senator.'' That probably isn't a phrase many would use to describe Senator BYRD. But what they both share is an undying love of this great country of ours and of the U.S. Congress. So I would like to join my colleagues, my fellow Americans, the people of West Virginia, and the Byrd family in celebrating this historic occasion. Senator BYRD, congratulations.

GUANTANAMO

Mr. MCCONNELL. Mr. President, this morning, the Attorney General will appear before the Senate Judiciary Committee for an oversight hearing. Among other matters, he will be asked questions about the Administration's recent decision to voluntarily bring terrorist detainees from Guantanamo Bay, Cuba, into the United States, including for purposes of civilian trial.

I, myself, have questions for the Attorney General.

The administration justifies sending Kahlid Sheik Mohammed and his fellow 9/11 plotters to civilian court, while prosecuting other foreign terrorists in military commissions because, it says, the former targeted civilians on American soil, while the latter attacked military targets overseas, like the warship USS *Cole*. I find this a truly troubling distinction.

First, is that rationale not internally inconsistent and, frankly, disingenuous? Everyone knows the Pentagon is a military target. Indeed, it is our Nation's foremost military command and control installation. What does it say to the military families of those service men and women who were killed that day to ignore that Kahlid Sheik Mohammed attacked a military target on 9/11?

Second, under this rationale, is the administration not telling terrorists that if they target defenseless U.S. civilians on our own soil they will get the rights and privileges of American citizens, whereas if they attack a military target, like the USS *Cole*, which can defend itself, they will not get these rights and privileges? Does that approach not reward terrorists with benefits—like potentially providing them access to sensitive information, and providing them a platform for propagandizing—for attacking civilians here in the U.S., rather than military targets abroad?

In short, I think the administration has made an ill-advised decision by bringing foreign terrorists from Guantanamo Bay into the United States. There are a lot of well-known

downsides and dangers from doing so. I have not heard of any benefit to us of bringing these terrorists here.

In his testimony before the Judiciary Committee today, the Attorney General has the opportunity to explain the administration's decision—something he has yet to do before the Senate.

HEALTH CARE REFORM

Mr. MCCONNELL. Mr. President, at a time when unemployment is at a 25-year high and with a Federal deficit breaking the $12 trillion mark, the House of Representatives passed a health care bill that raises taxes more than $700 billion. This is the House-passed health care bill on this desk. I expect the Senate version, which may be produced today, will be of similar size.

Who gets taxed under the House-passed bill? Let's take a look.

At the top of the list is small business. A small business surtax in the bill takes $150 billion out of our job creators. That is on page 344 of this massive 2,000-page House bill. We all know small businesses are the biggest job generators in the country. They employ well over half of those who have employment in our country.

Second, we have an employer tax. The employer tax raises $135 billion in taxes through a new mandate on employers. That is on page 281 of this massive 2,000-page bill. The NFIB, the National Federation of Independent Business, which represents small business, estimates that mandate would cost about 1.6 million jobs. That is a 1.6 million job-killing tax at a time when the national unemployment rate is 10.2 percent.

Insured Americans, item No. 4 on this chart—let's look at the tax on insured Americans. Billions of new taxes to pay for comparative effectiveness research rationing in this 2,000-page bill. That is on page 1179, a tax on those who are insured.

Then we have attacks on those who are uninsured, item 3 on the chart. They get taxed as well, a 2.5-percent income tax on the uninsured. That is on page 303 of this roughly 2,000-page bill.

Medical devices, upon which those who are sick depend heavily, will also be taxed. People needing lifesaving medical devices will also receive a tax increase, on page 347 of this massive 2,000-page bill. There will be a $20 billion tax on medical devices. Of course, that will be passed straight on to the consumers. So that will, in effect, be a tax on those Americans who are sick and who need medical devices.

There is also a tax on the chronically ill. On page 332 of this 2,000-page effort to restructure the American health care system, we find flexible spending accounts would be capped at $2,500 and phased out over time. How does that affect the chronically ill? As a result, tens of millions of families, many of whom are managing chronic illnesses, will see billions in tax-saving benefits from these FSAs wiped out, right here on page 332 of this 2,000-page bill.

What does all this mean to small business? David Boland is the manager at Boland Maloney Lumber, Louisville. He wrote to my office to say what it means:

> Health care reform that does nothing to control costs—

And we already know from CBO and from the actuaries that the Health and Human Services bill does not control costs—

> but merely increases the burden on small businesses through mandates and tax hikes is a dangerous and risky proposition that will imperil my company and our national recovery.

Don't take it from me; listen to David Boland. He gets it. He knows that slashing Medicare, increasing premiums, and raising taxes in a recession is not reform.

It was actually a front-page story in the Washington Post this morning, a company in Louisville that kind of underscores what I am talking about. The front-page story in today's Washington Post describes the ongoing struggles of a small manufacturer in my hometown of Louisville who is fighting to save jobs. This business owner wants to be more productive so he can hold onto his workers. But all of these crushing taxes, many of which would apply to his company, are simply not going to be helpful.

Finally, yesterday I spoke about Medicare cuts, the massive Medicare cuts in this bill we are shortly going to be considering. It is important to remember that Senate Democrats recently tried to pass a so-called doc fix that would have forced seniors to pay higher premiums on top of $½ trillion they want to cut from Medicare. Fortunately, this bill was rejected by a wide bipartisan majority. While we all think this problem needs to be addressed, this is not the way to do it. I am confident that should a similar bill pass the House later this week, we will reject it again on a bipartisan basis.

I yield the floor.

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, there will be a period of morning business, with the Senator from West Virginia recognized to speak first and the next hour under the control of the majority leader or his designee and the next hour under the control of the Republican leader or his designee, with Senators, after Senator ROCKEFELLER, permitted to speak for up to 10 minutes.

The Senator from West Virginia is recognized.

CONGRATULATING SENATOR ROBERT C. BYRD

Mr. ROCKEFELLER. Mr. President, I could not be prouder to rise today to congratulate a public servant without any peer at all, that being Senator ROBERT C. BYRD of West Virginia. On this actually very momentous day, November 18, 2009, my dear friend and colleague becomes the longest serving Member of Congress in the history of this Nation. On Friday, he will also celebrate a warm and joyous birthday.

Senator BYRD passes the incredible Carl Hayden of Arizona who served honorably in the House and then the Senate for 56 years, 319 days. We come together today as an institution to recognize that no Senator in history has cast more votes or has been elected by his colleagues to more leadership positions than ROBERT C. BYRD, no one else—a sign of the enormous warmth and tremendous respect and the unwavering admiration we all share for Senator ROBERT C. BYRD.

I am lucky every day to call Senator BYRD my friend, as I have been able to work with him in the Senate for the last 25 years and for the preceding 8 years when I was a Governor. But most importantly and most powerfully, Senator BYRD always makes me so very proud to be a West Virginian.

At our State capitol in Charleston, they are honoring Senator BYRD with a special celebration today. The same is happening in small towns, cities and communities all across our State. My fellow West Virginians are giving thanks for Senator BYRD's voice and for his vision. We are grateful for his strength and his rock-solid principle, which over the years has come to define West Virginia as surely as our endless hills and beautiful streams.

The people of my State love and respect Senator ROBERT C. BYRD, in part because so many share his very powerful story. So many have battled against the odds and continue to fight every day to try to make a better life for themselves and for their community. They are proud of their State, even knowing their State is not known by many, but they take pride in their unity.

Senator BYRD learned early in life what it meant to be loyal, have a strong work ethic, and possess an untiring faith in God. And it was these values these innately West Virginia values that guided his every action, and made him such a strong fighter for our State. Even in the hardest, youngest days of his life, Senator ROBERT C. BYRD never grew discouraged. It was not his nature. Growing up, he faced enormous challenges, but he had something called an iron will and he had a sense of purpose.

Now years later, we can sum up that purpose with the phrase ''fighting for West Virginia.'' It has always rung true, whether it is his 50th birthday or, in fact, his 92nd birthday. Whether he was a freshman in the House or the Senate's longest serving Member, it

has never changed with ROBERT C. BYRD. His fight for West Virginia is fundamental to his world, which is West Virginia's world. It is in his blood. It is a sacred cause.

It is not just the building of roads, that which is so often associated with Senator BYRD—and to be sure, those roads have transformed our State and connected us with other parts of the Nation and to each other—but so much more. When you pick up a local newspaper, always some institution, some college, some volunteer fire department, some research institute at a university or college has been helped by Senator BYRD. It is his job, but it is also his very special honor at which he excels because of his love for West Virginia.

Ultimately, it is work: it is simply hard work, and ROBERT BYRD never shied away from it for the people of West Virginia, for the Constitution and, yes for this institution, the Senate and its special place in our government and our Nation.

This week, I think of the many birthdays past that he has shared with many of us and with his precious wife Erma, his partner in everything, who gave him the great strength and great faith to reach great heights. It was a little sad to me—and I think to all of us who know him—the cost to him of her death. He changed just a little bit in ways that are hard to explain but ways which are very deep within his soul because he loved and depended on her so much. And I know that as we mark this tremendous milestone today, she is with us with great joy in her heart.

Please allow me to take this special moment to thank my beloved friend and congratulate him on this profound day in the whole history of the Senate, which truly sets him apart from all the rest. I am delighted to celebrate such an incredible milestone.

I wish him a wonderful birthday, many years of service, and all the happiness in the world. But most of all, I thank him for what matters the most to me, and that is his profound service to the people of the State of West Virginia.

For more than half a century, West Virginia has had in ROBERT C. BYRD a great man leading us in our greatest battles. And for that, we are truly blessed.

I yield the floor and suggest 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.

Mrs. SHAHEEN. Mr. 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.

Mrs. SHAHEEN. Mr. President, I rise this morning, along with a group of my colleagues who will be here, to talk about the importance of addressing health care reform to help small businesses. Senator LANDRIEU is leading this effort, and she is going to be coordinating the speakers this morning.

Mr. President, before I begin, I want to thank Senator ROCKEFELLER for his eloquent comments about Senator BYRD. My family lived in West Virginia for about 30 years and truly appreciated the difference Senator BYRD made for the State, and I am very honored to be able to serve with him, even for a very brief time. So I say to Senator ROCKEFELLER, thank you very much for those comments.

HEALTH CARE REFORM

Mrs. SHAHEEN. Mr. President, as the former owner and manager of a small retail business, I know very personally what it is like to worry about meeting the payroll, about whether you can pay for the inventory to keep your business going, about complying with the myriad of regulations you have to comply with.

As a former Governor, I certainly understand it is business and not government that creates jobs and drives new ideas and innovation. But I also know that government has a vital role to play in addressing the challenges businesses and small businesses face, especially in these very difficult economic times. One of those challenges small businesses are struggling with is the high cost of health care.

In New Hampshire, between 2002 and 2006, small businesses paid 42 percent more in premiums for health insurance for their employees; and for our smallest businesses, those with fewer than 10 employees, the increase was almost double that—a 71-percent increase in the cost of premiums.

So what does that mean for the small businesses and their employees who want health care? It means small businesses have to make the tough decision to either drop coverage for their workers or to increase the employee contributions, often to the point where their workers cannot afford coverage.

Everywhere I go in New Hampshire, I hear from small business owners who tell me about these tough decisions they face. I heard this concern from Adria Bagshaw who testified this summer at a Small Business Committee field hearing Senator SNOWE and I did in Portsmouth, NH. Adria and her husband Aaron own the W.H. Bagshaw Company, a fifth-generation family manufacturing company in Nashua, NH. They offer health insurance to their 18 employees and cover a portion of the monthly premium for them. But with those premiums at $1,100 per month per family, they spent more on health insurance for the first half of this year than they spent on the raw materials they need to make their products at their manufacturing company. Understandably, Adria worries they are going to need to cut back on the quality of health insurance plans they offer their employees or the amount the company covers to help pay for those premiums.

I have also heard from people such as Chick Colony who is a small business owner in Harrisville, NH. He has a wonderful weaving company that has been in Harrisville for generations. He e-mailed me, saying:

> The cost of health insurance is the biggest problem that our small . . . business faces.

They have 24 employees. He went on to say:

> The present system is expensive, inefficient and broken. I can't tell you how the 20 to 35 percent annual rate increases depress us all and there is no end in sight. Over the past five years, most of our employees have had to drop coverage because they simply can't afford to pay their share of the premium. I really believe that the time has come to put the existing system out of its misery.

Certainly we hope we can do that.

I have also heard from Kevin Boyarsky, who is an owner of a small printing company in Concord. He told me:

> Health insurance premiums have gone up 30 percent last year and 22 percent the year before. It's now a very big item in our company's budget. We want to grow and be competitive, but the high costs make it hard. From a small business perspective, I can't attract employees without good coverage, but if I hire you now, I'll only be able to offer you 50 percent of the individual plan. It's all I can afford and it isn't very attractive to employees.

Small businesses in New Hampshire and across the country are burdened by high premiums for health insurance. In fact, statistics show us that small businesses pay, on average, 18 percent more than large plans for the same insurance policy. And for small businesses that do not offer their employees health insurance, they cite the high cost of premiums as the reason why.

We need comprehensive health reform to help these small businesses. The small business owners I have spoken with want to offer insurance to their employees, both because they believe it is not only the right thing to do, but it is critical to being competitive, to recruiting and retaining good employees. But as they so often tell me, the high cost of insurance stands in their way.

Health reform is critical to these folks. We can help them by passing comprehensive insurance reforms that rein in health care premiums, so it stabilizes costs, and provide tax credits to small businesses to help them afford the cost of health insurance. I believe we must take these measures to help level the playing field for small businesses and to make insurance premiums more affordable.

Small businesses are the backbone of our economy. That is where most of the jobs in this country are created. We have to control health care costs to relieve the financial burden, so that so many of these small businesses in New Hampshire and across the country no longer have to face the choice of whether they can keep health insurance or hire employees.

I urge all of my colleagues to work together so we can pass comprehensive health reform legislation. We need to pass it, and we need to pass it soon.

Mr. President, I yield the floor.

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

CONGRATULATING SENATOR ROBERT C. BYRD

Mr. KIRK. Mr. President, as the 100th Member of the Senate, it is my great honor to pay tribute to this body's longest serving Member, Senator ROBERT C. BYRD of West Virginia, on the occasion of his record-setting 20,774th day as a Member of Congress.

I have the fondest memories, as a young staffer here, of listening to the sounds of Senator BYRD's fiddle wafting from his suite on the first floor of the Russell Senate Office Building. And I am proud today, as I do most days, to wear a wristwatch which was given to me, generously, by Senator BYRD over 20 years ago as I was completing my tenure as chairman of the Democratic Party of the United States.

I pay tribute to Senator BYRD on behalf of myself and the people of the Commonwealth of Massachusetts, but I also pay tribute on behalf of my predecessor and a great friend of Senator BYRD's, former Senator Edward M. Kennedy of Massachusetts.

It is true that Senator Kennedy and Senator BYRD did not always see eye to eye on every issue. Senator Kennedy used to joke that it was Senator BYRD who taught him how to count votes in their whip race in 1971. Actually, he taught us both how to count votes because I was a young aide to Senator Kennedy in his whip's office at the time and it turned out that Senator BYRD clearly could count votes more accurately than we could.

Over the years since, Senator Kennedy was always proud to be in this Chamber when his friend Senator BYRD would speak. As Senator Kennedy once said, he knew Senator BYRD was an expert on the Roman Senate, and he was sure Senator BYRD's ''wisdom and oratorical skill would make even Cicero envious.''

Senator BYRD and Senator Kennedy shared a love of the Senate, and they shared a love of poetry. One poem they returned to over the years was entitled ''A Psalm of Life'' by Henry Wadsworth Longfellow. Senator BYRD, of course, knows this poem by heart, and so I need not read it all today. Instead, let me recite the last few stanzas to the Senate and for the RECORD, as these words sum up the force that is Senator BYRD:

''Lives of great men all remind us
We can make our lives sublime
And, departing, leave behind us
Footprints on the sands of time;

''Footprints that perhaps another
Sailing o'er life's solemn main,
A forlorn and shipwrecked brother
Seeing, shall take heart again

''Let us then be up and doing,
With a heart for any fate;
Still achieving, still pursuing,
Learn to labor and to wait.''

Throughout his brilliant career, Senator BYRD has made so many footprints on the sands of time. He has touched, taught, and inspired hundreds of colleagues from every State and thousands upon thousands of Senate staff members have marveled at his genius, his dedication to the people of West Virginia, and his unparalleled service to the Senate and to this country.

I join all my colleagues in wishing him well on this special day in the history of the Senate, and I congratulate him on his incredible service to the State of West Virginia, to the Senate of the United States, and to the United States of America.

We thank you, Senator BYRD, for your service, and we congratulate you.

Mr. President, I yield the floor.

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

Mr. WARNER. Mr. President, let me commend my colleague, the Senator from Massachusetts, for his comments about Senator BYRD. I also want to join in recognizing and celebrating Senator BYRD's service to West Virginia and to our country. As a new Member to this body, I did not have the occasion to work as closely with Senator BYRD as others. However, as a resident of the Commonwealth of Virginia, not only did I follow the enormous respect Senator BYRD has engendered here in the Senate, but I have also watched with awe Senator BYRD's ability to bring jobs back to West Virginia. He was able to relocate many Federal agencies and activities, oftentimes that may have previously resided in Virginia, to the State of West Virginia.

I join my colleagues in commending Senator BYRD, not only for his enormous service to this body and to our country, but as someone who has been a tireless advocate for his home State of West Virginia.

Ms. LANDRIEU. Mr. President, I join my colleagues in commenting on and thanking Senator BYRD for his extraordinary leadership, not just for the people of West Virginia but the people of our Nation—in fact, to millions of people around the world—because of the policies he has driven here, the speeches, the words he has put behind so many of the most remarkable policy decisions over the last half century. His work has had enormous impact, again, not just in his State and in our Nation but worldwide.

I am speaking also as a Senator from Louisiana to give firsthand witness to his sensitive and timely and extraordinary leadership after the Katrina and Rita disasters, now almost 4½ years ago; it will be 5 years this August. That is hard to believe. The hurricanes and the subsequent levee failures devastated one of the great cities in America and one of the great regions. There were very few people who stood up in Washington. The administration at the time had a hard time grasping the scope of the disaster. But there was one person who understood. There were several others, but one in particular understood—amazingly, without even having gone down there, which was very hard to understand if you didn't go to New Orleans or south Louisiana. But he instinctively understood because of his compassion and great empathy that has been developed over a lifetime of caring, giving, understanding, and listening.

Senator BYRD heard the cries of the people and he responded. Because of his leadership on the Appropriations Committee, despite having so much stacked against us, he was able to step up. I will never forget and the people of our State will never forget the friend we have had in Senator BYRD. He continues, to this day, to watch after our recovery and support it. When New Orleans makes its 300th anniversary, which will be 2018—our city will be 300 years old—there will be a person who needs to be thanked on that day for helping the city to reach its 300th birthday, and that would be the great Senator from West Virginia ROBERT C. BYRD.

Mr. REED. Mr. President, today I have the great privilege of rising to pay tribute to my chairman, the longest serving Senator in the history of this country, the senior Senator from West Virginia, ROBERT C. BYRD.

He has reached a milestone among many in his career. It is an extraordinary record of service and dedication and patriotism to the country, and it reflects the values of the people of West Virginia and of this great Nation. Senator BYRD's extraordinary service is measured not just in length but accomplishments, but the length is impressive, indeed. He has 20,744 days of service as a Member of Congress—over 56 years, 10½ months. Over that time, Senator BYRD has cast over 18,500 rollcall votes, witnessed the inauguration of 11 Presidents, and he has been successful in 15 out of 15 elections.

For over 60 years, Senator BYRD has represented the people of West Virginia tirelessly, with a great deal of energy and a great deal of success. He started in the West Virginia House of Delegates and then was elected to the West Virginia State Senate. Then he went to the U.S. House of Representatives. Finally, he came here to the U.S. Senate, where he is currently serving in an unprecedented ninth full term.

I think Senator BYRD's success is a reflection of his steady progress, learning first about the people of his home State as he worked among them, knowing them well because they were his friends and neighbors; and then going on into local government and dealing with the concerns as a State representative and then as a State senator; and then coming to the House of Representatives, understanding the operation of the House and how he could help the people of West Virginia; and finally, he coming here to the U.S. Senate.

What is incredibly impressive about Senator BYRD is that he is not only the longest serving Senator in the history of this country, he is the most knowledgeable Senator with respect to the history of our body. He is the author—he literally wrote the book on the U.S. Congress and the Senate, among so many others that he has written. This reflects his incredible talent and intellect but also his incredible hard work and tenacity, and it reflects the range of experience he has had.

No one knows this body better than ROBERT BYRD. No one has served it longer. Nobody has served it with the same kind of energy, insight, and dedication. It has been reflected in West Virginia, across the Nation, and across the globe. For example, in 1947, shortly before Senator BYRD first came to Washington D.C. as a U.S. Congressman, there were only four miles of divided four-lane highway, in West Virginia. Today, as a result of Senator BYRD's work, the expansive Appalachian Development Highway System is nearing completion. He understood, as we must today, that economic development is not only a fundamental need, but that it results largely from the infrastructure improvements that speed commerce and literally connect people to one another.

Senator BYRD also is a tireless advocate for miners, those men and women—principally men—who go down and literally risk their lives in the coal mines. He knows this firsthand. As a result, mining-related injuries in West Virginia have significantly declined since Senator BYRD came here—the results of his actions, the results of his understanding, and the results of his commitment to the people he served. He worked hard each and every day for those who risk their lives in a dangerous occupation and deserve the attention and respect of this body and our country.

He has done much more than help the people of West Virginia. As I indicated before, as the greatest scholar in our body, he has demonstrated a profound understanding and respect for the Constitution of the United States. He has shown that not just in words but in deeds. He has been prepared to stand up when he thought constitutional values were being impaired. Indeed, no commitment is greater to Senator BYRD than his commitment to the Constitution and the values therein. He has stood up forcefully and persuasively on so many occasions to defend the Constitution and to serve truly the oath we all take to preserve, protect, and defend the Constitution.

On Friday, Senator BYRD will celebrate his 92nd birthday. He will celebrate that in his usual fashion: He will work, I am sure. He will work for the people of West Virginia, for the people of this country, and for the people of the world. He will reflect back on his dearest partner, his wife, who was his support, comfort, and inspiration. He will reflect upon his children, grandchildren, and great-grandchildren. He will reflect upon a life well lived in service to his country. But more important, he will look ahead to the work he will do as he finishes this term and prepares for his next election to represent the people of West Virginia.

Mr. ALEXANDER. Mr. President, I would like to acknowledge the service of Senator BYRD, the senior Member of the Senate who, today, will become the longest serving Member of the U.S. Congress ever in our Nation's history.

When I first came to this body as a young aide to Senator Howard Baker 42 years ago, Senator BYRD had already been here as a Senator for 10 years. He had been in the Congress 6 more years than that.

I remember when he, Senator Baker, was elected majority leader and Senator BYRD was the Democratic leader, Baker went to BYRD and said: BOB, I have a proposal for you. I will never learn the rules as well as you know them, so I won't surprise you if you won't surprise me.

Senator BYRD said to Senator Baker: Howard, let me think about it.

So he thought about it overnight, came back, and that was their deal the next day, and that is the way they worked for 4 years in managing this Senate. Senator BYRD and Senator Baker both read David McCullough's book. Senator BYRD told me it changed their minds about the Panama Canal in 1980 in a decisive decision that was controversial in the Senate. I worked with him and the late Senator Kennedy, whom the Presiding Officer succeeded, on American history, and we have legislation pending which I hope we will pass when we reauthorize the Elementary and Secondary Education Act consolidating all the Federal Government's activities to encourage our children to learn U.S. history so they will know what it means to be an American.

Senator BYRD now more than ever is a part of that history. He is an indispensable Member of this body. He teaches us as well as serves with us and we honor him for his service.

I yield the floor.

HEALTH CARE REFORM

Mr. WARNER. Mr. President, I rise today to once again join my colleagues in addressing the need for comprehensive health care reform. The Senator from New Hampshire, Mrs. SHAHEEN, earlier spoke on health care reform and its effect on small business. I know my colleague, Senator UDALL from Colorado, is going to be speaking soon. And I know we are going to be joined, as well, a little bit later by Senator LANDRIEU, who takes a leadership role on the issues affecting small businesses, as chair of the Small Business Committee. I rise today to stress how important health care reform is to the small business community. Currently, there are small businesses across America that have been hit very hard by the effects of the recession. Small businesses are struggling as they try to keep their doors open, with the enormous constriction of credit that is taking place. Small businesses are struggling to have the finances to expand; even healthy small businesses, as we have seen. Banks continue to draw back in capital and try to build up their own balance sheets. The people who have taken the hardest hit by the restriction on capital and the restriction on lending have been small businesses across this country.

So we have the enormous challenges small businesses have felt by the recession that has been exacerbated by the constriction of lending, and then we add on top of that the enormous challenges that small businesses face in the health care market. The only people who pay retail—who pay full price for their health care benefits in America today—are small businesses and those who purchase health care on the individual-based market. There is no group that will more benefit, or have more to gain from meaningful health care reform, than small businesses.

Small businesses currently lack the bargaining power of large firms and pay as much as 18 percent more for the same health insurance as larger companies. If you work in a large company you get the benefit of the larger pool, and you are better able to bargain for your health insurance rates. If you are poor and cannot afford health insurance, you get access to Medicaid. If you are a senior, you get access to Medicare. Small businesses are the group that falls through the cracks. They don't have access to this purchasing power, and consequently pay, on average, about 18 percent more for health insurance than larger companies.

As health insurance costs continue to rise, more and more small businesses can no longer even afford to offer health insurance to their employees. And if they do, their employees can't afford the co-payments to purchase health insurance. In fact, nearly one-quarter of the uninsured in our country works for small businesses. Between 2000 and 2009, the percentage of firms with less than 10 employees—the heart of small businesses—offering insurance coverage fell from 57 percent to 46 percent. Among people with employer-based coverage in January of 2006, one-sixth lost their coverage by 2008. Nearly three-quarters of small businesses that do not offer coverage to their employees cite high premiums as the reason. Small businesses want to offer health benefits to their employees, but are priced out of the market and cannot afford it.

Many small business employees are left uninsured and, in turn, rely on the health care system to pick up the costs when they get sick. It is these people who show up at emergency rooms and access the most inefficient part of our health care system. They are oftentimes not people who are unemployed, but employees of small businesses. Enacting market reforms such as creating

insurance exchanges will finally give small businesses affordable options. Their employees will have a place to purchase insurance at large pool rates and, by insuring more people, reform will help drive down the cost of health insurance for all Americans. Insurance exchanges will also significantly reduce administrative costs for small businesses by enabling them to easily and simply compare the prices, benefits, and performance of health care plans.

I know a number of us are working on a series of amendments for when the health care bill gets to the Senate floor to try to make sure we add further disclosure requirements and more transparency to our health care system. Right now we don't have a free market in our health care system because nobody knows what the providers actually pay, and what the doctors and hospitals actually charge. Small businesses will benefit by trying to bring transparency to these health insurance exchanges.

Additionally, reform will enact consumer protections such as prohibiting insurance companies from denying coverage based on preexisting conditions and dropping people when they are sick. This is particularly a challenge to small businesses. If you only have a small group of employees and a few have preexisting conditions, those preexisting conditions drive up the cost of providing insurance for this smaller pool. Oftentimes this results in pricing small businesses out of the market. Reforms such as eliminating preexisting conditions will dramatically help small businesses and their employees obtain affordable health insurance.

These protections are vital for small business employees because they help level the playing field in the small group market. They guarantee the option of large pool rates, lower costs, and prohibit insurance companies from arbitrarily penalizing small businesses when one of their employees becomes seriously ill.

Lowering health care costs for employers is also key to our ability to compete in the global economy. If American business is going to come out of this recession and we can compete with countries around the world, we have to take on the cost of health insurance. American workers are more productive than any other workers in the world. But even with that increased productivity, if American businesses have to pay $3,000 to $4,000 more per employee because of higher health insurance costs than our competitors that puts American businesses at a dramatic disadvantage.

As health care costs continue to rise, other business investments are sacrificed. Forty percent of businesses say health care costs have a negative impact on other parts of their business. As I mentioned, with the great reduction of credit availability to small businesses and in this challenging economic climate, American businesses cannot afford to be at such a disadvantage. With health care reform, more of our Nation's dollars will go toward investments in our economy.

Health care costs also stifle productivity. Too many Americans end up staying in jobs simply because the employer provides health insurance. They aren't able to move around, or move into entrepreneurial startup firms where innovation and real growth potential takes place. Startup firms and, again, small businesses are often not able to offer health insurance. Consequently, we have good workers who are not able to move into these firms and help spur job growth because they are caught in dead-end jobs. They are constrained by the security of health insurance offered at their old jobs or perhaps because they have a preexisting condition and can't move to a new situation.

Again, if we do health insurance reform right, it will put in place reforms such as the elimination of preexisting conditions requirements that will allow more freedom of movement within the job workforce.

So, once again, I join my colleagues in making this case. We have made it time and again. Health care reform is necessary to make sure American businesses remain competitive. Health care reform is necessary because health care costs are the single largest driver of our Federal deficit. Health care reform is necessary because if we don't address rising costs, Medicare will be insolvent by 2017. If we don't reform the system, costs will also rise for families; an average Virginia family, for example, within the next decade, will be paying nearly 40 percent of their disposable income to meet their health insurance premiums.

I will close my comments with where I started. Small businesses are the only players in our market who still pay retail for their health care costs and are increasingly being priced out of the market. Reform is imperative for the small business community.

I know my friend, the Senator from Colorado, is about to speak, and our leader on small business issues, the Senator from Louisiana, who has been so diligent on leading these efforts and making sure that small businesses are protected in health care. We must get this right. We must get this bill to the floor. And we must provide needed relief to the small businesses that will generate the economic recovery that we're all hoping for.

Thank you, Mr. President. I yield the floor.

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

Mr. UDALL of Colorado. Good morning. I, too, before I speak on health care, wish to join my colleagues in congratulating Senator BYRD. I, too, am in awe of all of his accomplishments, and I, too, admire his affection for the Senate and will endeavor in my service here to model his example.

I join my colleagues this morning to discuss an issue of great importance to Colorado and to me. These past few weeks, as the Presiding Officer has, along with many of us on this side of the aisle, I have spoken about comprehensive health insurance reform as a key to strengthening and securing the lives of middle-class Americans. One of the most important components of that goal is ensuring that we do everything we can to help small business owners and their employees get affordable health coverage.

As the Senator from Virginia mentioned, over the last 15 years, small businesses have created over 65 percent of the new jobs in our country. Yet the power of this job creation machine is being threatened by the exploding costs of health care. It will only get worse if we don't act.

If we do not pass health insurance reform, small business owners will continue to see the costs of providing benefits eat away at their bottom line. In my home State of Colorado, premium costs for small businesses are projected to more than double over the next decade. These unsustainable cost increases not only harm current businesses, but they prevent the growth of new ones. More and more would-be entrepreneurs across the country are deciding not to start their own companies due to the fear that they would not have access to affordable insurance for their families or for their employees.

Unfortunately, this fear is too often justified. In the insurance market today, small businesses lack the bargaining power to get affordable rates that many large employers enjoy. They find themselves subject to unpredictable and massive spikes in premiums. That is why it is so important that we pass a health care reform bill that takes proactive steps to address the rising costs of health care. I have to tell my colleagues I have been encouraged by the proposals I have seen thus far.

For example, a recent analysis of the nonpartisan CBO, the Congressional Budget Office, score of the Senate Finance Committee bill estimates that the reforms therein would save small businesses $65 billion every year for the next decade. The proposal would do this, in part, by taking steps to transform our health care delivery system to one that produces higher quality care at lower costs. It would also include tax credits specifically designed to help cash-strapped small businesses provide coverage to their employees.

Additionally, new reinsurance programs would reimburse employers struggling with particularly high catastrophic costs. In addition to these probusiness proposals, we also need to make sure the market offers new and affordable options for those employers who want to offer coverage but currently cannot afford to do so. The new health insurance exchanges envisioned under the reform packages before us would permit small employers to purchase policies that spread risk across a

much larger population. New consumer protections would also keep costs down by prohibiting insurers from charging higher premiums on the basis of health status or gender.

Right now, being a woman is a preexisting condition under the terms of many insurance policies. That is just not acceptable. Employers would also be able to keep expenses down by promoting personal responsibility—offering wellness premium discounts to employees who make healthy choices.

Enacting meaningful health care reform is necessary for ensuring productive small businesses, new American jobs, and a strong economy. Independent and unbiased analyses estimate that in the next 10 years, reform can save upward of 80,000 small business jobs and raise wages by more than $30 billion annually. Those are very promising numbers.

As the Senate begins its historic floor debate on health insurance reform, you can expect that I and my colleagues will continue reminding the other side of the aisle just how critical reform is to the small business community. No amount of misleading rhetoric or misdirection by the defenders of the status quo will be enough to convince the American people we should continue forward on our current unsustainable path.

I say to all my colleagues: Let's work together over the coming weeks to strengthen this legislation, empower small businesses, and put America's health care system on the road to recovery.

Thank you, Mr. President. As I yield the floor, I wish to acknowledge the great leadership of the chairman of the Small Business Committee, the Senator from Louisiana.

Thank you.

The PRESIDING OFFICER (Mr. KIRK). The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I thank the Senator from Colorado and the Senator from Virginia for their remarks earlier this morning on the subject I am also going to speak on, which is the urgency for us to provide important help to millions of small businesses out there that are depending on us to get this reform done right.

I wish to speak for a minute about reforms for small business in America. There were many different reasons expressed by Members of Congress about why they began engaging in this very tough debate on health care. Many different issues brought us to the table. One of the issues that brought me to this table of reform and negotiation was the desperate plight of small businesses in America that have nowhere to turn.

As my colleagues have said in their very excellent statements this morning, the unpredictable and unsustainable and skyrocketing costs of health care to small business in America is damaging their ability to grow, is participating in an uptick of bankruptcies, is diminishing their ability to hire people and create jobs at a time when our country needs those jobs created, perhaps more than ever in the last 25 or 30 years. Until we get health care right for small business, they cannot get job creation right for America. It is as simple as that.

So as difficult as this debate has been—and it has been very long, very arduous, with lots of different views—one thing we must do, in the final weeks and months of the debate, is get it right for small business. I have heard from hundreds of small business owners as chairman of the Small Business Committee. My members have heard from hundreds. We have heard from thousands, through their representative associations, from conservative associations, to moderate, to more liberal associations representing a broad stretch of small businesses in this country, saying this is their No. 1 issue.

Just this week, Barbara Biersmith, who owns Sylvan Learning Center in Monroe, LA, a small business owner—1 out of the 27 million that exist in the United States of America—and 27 million is a lot of people, a lot of businesses and employees. She is one. She is quoted in the Monroe News Star this week:

> As a business owner, I have struggled in vain for more than 22 years to find a way to provide health insurance for my employees.
>
> Health insurance providers tell me I have too few employees to make a group. Or they tell me that some of my employees have preexisting conditions that excludes them from a group and that would make the group too small.
>
> The kind of highly educated, experienced people I prefer to hire nearly always have preexisting conditions. Who doesn't have a preexisting condition by the age 30?

Considering that being a woman of childbearing age is considered a preexisting condition, I think she is right. Who doesn't have one these days based on the interpretation of these policies? She goes on to say:

> Because my business can't provide good health benefits effectively, I am restricted to hiring people who are covered by their spouse's medical insurance.

This is something that is not talked about often. I know my colleague from Washington is waiting to speak. I will go through this as quickly as I can. I hear this over and over again when I am on the streets and in towns and communities back home and I don't hear it here. Let me say it. I have any number of people who come up to me and say: Senator, thank you for working hard on health care. I am a little concerned or confused about what you all are doing but try to get it right because my health care is through my spouse who works for the government or my health care is through my spouse who works for a big company, and if I didn't have that health care, I wouldn't have any.

I was in a restaurant last week, and the gentlemen who owns it told me this: I couldn't be a small business owner but for my health care that is covered through my spouse.

It is right to get the policy right so everybody can have access to affordable health care coverage.

She goes on to say:

> I hope and pray our representatives and Senators soon pass Federal legislation to help the really small businesses of America.

Let me say I hope that help is on the way. If we can negotiate this bill, in terms of robust exchanges, subsidies for small businesses, particularly these very small businesses of under 10 employees or 25 employees, it would help. The situation Barbara is facing is not acceptable and must be corrected. But her situation is not unique, as I said. According to a report by the Small Business Majority, the health care costs for small businesses are expected to increase from $156 billion in 2009 to $2.4 trillion by 2018.

Before I put up the next chart, I need to repeat these numbers because they are dramatic. These are numbers published by the Small Business Majority's report, based on actual data. This is a bill that small business cannot pay. This is a bill they cannot pay. We must get the costs moving in a different direction. It will take some time, but we must get this chart going from up to down. That is why I have pushed every day of this debate to focus on cost containment. Not only is it important for taxpayers and government, it is absolutely critical for small businesses to have more choices at lower costs.

This chart shows the graph in a different way. This shows the cumulative cost of health care benefits—the first one. This is indicating job loss, and 178,000 small business jobs will be lost in 2018 due to the high cost of health care. That is up from 39,000. Companies can't continue to hire if they have to pay higher premiums for the employees they still have working for them.

Costs are high because of a broken insurance market where insurers, in order to satisfy their stockholders, put a greater focus on their bottom line. I understand that when you are in business, you need to make a profit. I understand that is why you are in business. I have no problem with people making profits—and significant ones—as long as the rules are fair and as long as there is opportunity to keep our values in order. One of the values we have in America is people going into business making a profit but making sure, if you are in the business of insurance and delivering benefits, that is what you are delivering to the people you are trying to serve. So we need some adjustments in those rules and regulations. That is what I think we are doing in our reform bill.

More alarmingly, getting back to the statistics, according to some reports, including a recent New York Times article, the insurance companies are planning to raise rates even higher today in anticipation of our reform effort. This is very unsettling, and the

sooner we act the better I think we will be—to help reform this market, to bring some order to the framework. That would be extremely helpful.

Lack of choice and competition is a problem, as I said. In Louisiana, our two top insurers maintain 74 percent of the market. In Alaska, I understand, there are two insurers maintaining 95 percent of the market. This is not real choice. It is not real competition. That is why the exchanges we have in most of the base bills, making them more robust, making subsidies as generous as we can to encourage individuals to assume responsibility for their health care, as well as subsidizing small businesses to encourage them to get into these large pools, I believe—and many of us believe—that will help to drive down costs, as we reform the private market.

To level the playing field for small businesses and to provide working families with more choices at lower costs, the bill we will vote on in the Senate will have as robust an exchange system as possible. These exchanges will allow businesses and individuals to pool to give them the negotiating power and to spread risk.

We estimate today that small businesses pay retail, as the Senator from Virginia. Mr. WARNER said. Everybody else pays wholesale. Small business pays retail. The price of paying retail is a minimum of 18 percent more on premiums that they are paying. So we want to get that savings. The exchanges will achieve that. The exchanges will also achieve lower administrative costs, so you don't have to hire a full-time lawyer or accountant to navigate the wide variety—actually, there are limited choices today, but you will have more transparency, more robust exchanges.

Finally, regardless of the level of benefit choices, there should be a limit on how much individuals must spend out of pocket and a minimum standard of care among all the plan levels. These are some of the protections we are working on for small businesses, which will benefit individuals as well.

Again, I thank my colleagues for being on the floor this morning. I think Senator CANTWELL, the Senator from Washington, who is here to give voice to this important part of the debate. Again, we have hundreds of Members of Congress. We all came to this debate carrying various issues and with greater concerns than others. One of my great concerns has been, as we try to find a way to dig ourselves out of this great recession—some say the worst economic situation since the Great Depression—the only way we are going to do that is for businesses to create jobs. Right now, there is a big burden that they have been carrying alone. They need help, support, and they need more tax credits, more robust subsidies, and a more orderly private market framework that allows the insurance companies to be in business and to make a profit but also allows small businesses to be able to afford quality coverage for American workers, so we can get back to being the most productive workforce in the world.

I yield the floor for the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I come to the floor to join my colleagues to talk about the rising cost of health care on small businesses. I thank the chair of the Small Business Committee, Senator LANDRIEU, from Louisiana. She has been an outspoken and articulate advocate for small business. She is constantly focusing on what we are going to do to help small businesses in America, and she wants to make sure any health care legislation that is passed out of the Senate focuses on that. That is very important because we know that when we talk about small businesses in this current environment, they are at a disadvantage when it comes to our health care system. That is to say they have long been the backbone of the American economy. Small businesses employ about 40 percent of our workforce. Even in a downturn, the job creation we are going to see is going to come from small businesses. If we can address their concerns in health care reform about the rising cost of health care, then we are going to be doing ourselves a favor because they are going to be able to grow more jobs and grow the economy.

I applaud the Senator from Louisiana for her efforts and join with my colleagues, Senators WARNER, UDALL, and SHAHEEN, in coming down here to describe why we think it is so important that we get health care reform and that we do something about this because we really do want to get our economy going, and we certainly want to control costs so that small businesses can grow jobs.

Why is this so important? We have seen a 120-percent increase in premiums over the last 10 years. That is to say, from 1999 to 2009, insurance premiums have increased 120 percent—120 percent. What family in America can sustain the constant increase in insurance premiums every year? The fact is, they cannot.

In my State, we have seen a sharp rise in those who are without health insurance because the premiums keep going up. More and more small businesses have to make choices between keeping employees on the rolls or cutting back on their health insurance. And they are making those choices. It puts all of us at a disadvantage.

What should we be doing instead about the rising costs of premiums in health care? We should be doing something to bend the cost curve. You will hear many of my colleagues, as you did this morning, talk about bending the cost curve and why it is so important. Right now, if we look at what is happening with health insurance, as I said, it already increased 120 percent over 10 years. The next 10-year period, it is supposed to increase in the same way, double in cost, increase about 7.9 to 8 percent a year. So that means if we do nothing, small businesses are going to continue to see this escalator of costs keep going up for, and that means they are going to employ fewer and fewer people because they cannot afford the health care coverage.

We see that general inflation is about 2 percent, but this increase in premiums is about, as I said, 7 to 8 percent. Why are we seeing this huge increase in the cost of premiums if general inflation is only about 2 percent? This, in my opinion, is what the health care debate should be about. This difference between general inflation and health care cost increases should be the entire debate. What are we going to do to drive down the costs so that health care costs are kept more in pace with inflation?

Why are these statistics so important? The issue is that, according to the National Small Business Association, only 38 percent of small businesses provided health insurance last year. That is down 61 percent from 1993. So we are continuing to see that shrinkage in people offering coverage. Of those who do offer coverage, 72 percent say they are struggling to continue to offer coverage to their employees.

An MIT study shows that the cost of health care to small business will more than double in the next 10 years, just as it has in the last 10 years, and that small businesses pay up to 18 percent more than the same coverage for larger firms. What that means is small businesses are being disadvantaged. They are being disadvantaged because they do not have the same clout in the marketplace as a large employer to negotiate benefits and drive down costs.

What do we want to do about that? What we want to do is give small businesses the same kind of negotiating power large companies have to negotiate for benefits. In fact, health care reform and helping small businesses should be able to negotiate with insurance companies to drive down the costs of their plans.

This is something that is already part of the underlying bill we passed out of the Finance Committee. I am sure that when we see legislation coming to the Senate floor this Friday, we will see the same kind of provision, at least with the basic health plan, a provision I helped coauthor in the legislation that would allow States to negotiate on behalf of the uninsured, allowing those who are employed in small businesses to help lower the costs. In our State, this plan has driven costs down 30 to 40 percent lower than what those individuals would be able to get in an individual market. That is amazing, the fact that they have been able to pool together 40,000 to 60,000 people, go to the marketplace, and say to insurance providers: If you want access to our insurance business, you have to

give us a discount. I call it the Costco model. I don't know how many people here this morning understand the Costco model, but the Costco model is something where you buy in bulk and you make large purchases. You should get a discount. That is what we are saying. We want to give small businesses the same kind of purchasing power large businesses have so they can drive down costs. That is going to be a critical component of this legislation, and this Senator, along with my colleagues who are out on the floor today, is going to make sure that negotiating power exists in a final bill for small business.

Second, we need to make sure we also have provider reform, that provider payments reward not just volume but value. Right now in our health care delivery system, there is a lot of focus given to what I would say is the quantity of health care that is delivered, the fee-for-service system that basically ends up having insurers paying physicians for the number of patients they have seen or the number of tests they have ordered but is not generated or focused on payment to a physician based on the outcome of the patient. There are provider reforms in this legislation that will also help drive down the cost to small businesses because those providers will be focusing on what it takes to deliver health care to those individuals.

Third, we need to have better transparency on drug pricing because transparency of cost is something that will help us in negotiating, as a government purchaser, better health care benefits. Right now, there is a lot of unknown about health care costs in drug pricing because middlemen basically negotiate discounts on behalf of their customers but end up pocketing some of those benefits.

We want to make sure all three of these points are part of vital legislation to help drive down the cost for small businesses.

I have many small businesses come into my office. I met with some in the State of Washington. We are very proud of the diverse array of companies that exist in our State. A lot of people look at some of the major employers such as Boeing or Microsoft or, as I mentioned, Costco, Starbucks. Washington State is home to many entrepreneurs. There are many great companies that may be the big companies of the future but are the small businesses today, and they need our help and assistance.

Two of those, Kent and Linda Davis, run a technology consulting firm and pay $1,500 per month for health insurance—$1,500 per month. They just learned that in 2010 their premiums will increase by another $300 per month. This is the third substantial increase they have had in a row. They want to hire more employees, but they cannot because of the cost of health care.

Another successful entrepreneur who has come into my office, Gene Otto, is the owner of the San Francisco Street Bakery. You might think the San Francisco Street Bakery is in San Francisco, but it is actually in Olympia, WA, and it employs 20 people. Over the past decade, the increases in health insurance premiums have forced them to take dramatic reductions in the level of benefits and the number of employees they can cover. This is a company that wants to grow. They want to expand. They have great products and great services.

It is people such as the Davises and Gene Otto who are the economic engine of our economy. They are going to continue to depend on us to make sure that in this legislation and in this legislative debate, we are going to do everything we can to help small businesses grow.

Small businesses cannot grow if health care costs are going to rise 8 to 10 percent a year. It will hamper the ability of those small businesses to meet the demands and challenges of their workforce and keep them healthy, facing an economy that has been certainly challenged by this big downturn we have seen but that needs to go back to growth in the future. They want to be part of that. They want to be part of that growth, and they want to be part of helping our economy recover. But to do that, we are going to have to do something to control health care costs.

I applaud my colleagues who I know share these same issues and concerns: the Senator from Virginia, who has been very outspoken on the fact that we have to change our system to make sure we are bending the cost curve and focusing on driving down costs with provider reforms; my colleague from Louisiana, who is focused on making sure small businesses have clout and access to small business negotiations that large companies have; my colleague Senator SHAHEEN, who also has been a big supporter of making sure we have provider reform in the system; and Senator UDALL, who comes from a State that knows health care costs are a key component. If we want our economy to grow, we have to drive down health care costs.

Two of our former colleagues have been on the floor in the last few minutes—the Vice President of the United States and the Secretary of Interior. We are glad they have come up to Capitol Hill to continue discussions with us about how important this legislation is. I thank them for that. I thank them for their service to our country and for their willingness to serve in the administration. We certainly miss them in the Senate. But I think it emphasizes the urgency of the health care legislation, that our economy is struggling, that we want it to grow, that we think small businesses are going to be a key component of that, but we have to give them negotiating power. We have to give them the ability to negotiate with insurance plans to drive down the costs, and we have to do better at reforming the system so we can see that growth happen in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, will you please let me know when 8 minutes has elapsed?

I, too, see the Secretary of Interior on the floor, who formerly was a Member of this body. We miss him. We are glad he is here. We are glad he is taking care of the treasured landscapes of America.

HEALTH CARE REFORM

Mr. ALEXANDER. Mr. President, an unusual thing is about to happen here: an actual debate is about to break out on the floor of the Senate about health care. Sometimes we are talking past each other. My friends on the other side talk about jobs and small business, so let me start there.

The difference between the Democratic proposals for health care and the Republicans is the Democrats start with a 2,000-page bill, more or less, with a government takeover, with more than $1 trillion in spending, with new taxes, higher premiums, and Medicare cuts, and we don't believe they can spend that much more money without increasing the debt—in other words, all going in the wrong direction.

We believe we ought to be reducing costs step by step, and the Republican proposals say that step No. 1 should be small business health plans. They are saying they have an idea about small businesses, and we are saying the same thing.

In my few minutes today, I would like to show why our proposals are better than theirs. For example, Senator ENZI of Wyoming, who was chairman and is now the ranking Republican member of the Health, Education, Labor, and Pensions Committee, has a small business health plan he has been trying to get this Senate to vote on for years. In fact, this plan came up before the Senate, and our Democratic friends blocked it. They like to say Republicans are the party of no; they are the party of no because on May 11, 2006, they voted no to small business health plans which would lower health care costs for thousands of employees in this country.

Let me be specific about that and why it is superior to the suggestion that has been made in the Finance Committee bill, the 2,000-page bill which has come out of the Senate Finance Committee. In the Enzi plan, the Republican plan, we would allow small businesses to come together and pool their resources. What that means is, if I have a small business with 50 people and you have one with 100 people and you have someone with open heart surgery, you cannot afford to keep paying for health insurance anymore because that one employee's health care costs make it impossible for you to do that or you have to lay people off or you

have to reduce wages. That is what happens in the real world. What we are saying is, let's let small businesses come together, pool the resources, and offer insurance that way—spread the risk, in other words.

What does the nonpartisan Congressional Budget Office say the effect of that proposal would be on small businesses and their health care costs?

This is what the CBO said: No. 1, enacting the Republican proposal—which we would hope would gain Democratic support—would extend more insurance to at least 750,000 Americans who are employees of small businesses. That is No. 1, more people insured.

No. 2, it would lower the cost of insurance premiums, not raise them as this 2,000-page bill would—lower the cost of insurance premiums for three out of four employees.

No. 3, it would reduce the cost of Medicaid, the government program for low-income Americans, by $1.4 billion.

More people covered, lower premiums, and a lower cost—that is what they mean by bending the curve. So if that is the proposal, why do the Democrats not allow us to vote on it? You see, we believe these 2,000-page bills with higher premiums and higher taxes, with Medicare cuts—we have these bills all over the place. Senator REID, the distinguished majority leader, has one in his office. He has been meeting secretly for weeks with people—we don't even know who—writing a bill which may emerge as early as today. Then when we get it, we will all have to read it. I am sure we will find more premiums, more taxes, more Medicare cuts, probably additions to the debt, probably more transfers of cost to State governments.

We have Governors who are Democrats and Republicans saying: Please don't do that to us. We are in the worst condition we have been in since the Great Depression, and you are going to dump a lot of costs on us that we didn't volunteer to pay. We can't afford it. We have to balance our budgets.

That is probably what is coming. What should we do instead? We said day after day on this floor that we should set a goal—reducing costs, the cost of premiums, the cost of health care to the government—and we should move step by step toward that goal.

We said step No. 1 should be small business health insurance plans. Step No. 2 should be to allow competition for insurance across State lines. That would reduce costs. Step No. 3 would be to reduce junk lawsuits against doctors, which some States have done, and which everyone agrees drives up costs, encourages defensive medicine, and causes doctors to move out of rural areas so that pregnant women have to drive 60 or 80 miles to Memphis or halfway across Alaska to get their prenatal health care or check into hospitals for 3 weeks in a big city so when they have their baby they will have a doctor available. That is the effect of that.

Then health insurance exchanges so you can shop for cheaper health care, then reducing waste, fraud, and abuse. The General Accounting Office has said $1 out of $10 in the Medicaid Program, which the Democratic proposals will expand, is wasted. It goes down the drain every year—$32 billion.

If we really want to reform health care, why do we keep coming up with these 2,000-page bills and trillion-dollar costs and higher premiums and higher taxes and Medicare cuts and additions to the debt at a time when we have 10 percent unemployment? What is that going to do to small businesses? New taxes are going to create more jobs?

We have the Finance Committee bill with $900 billion of new taxes over 10 years when fully implemented. That is not going to create new jobs. New taxes are passed on.

If you run a business with 40 people or 100 people or 150 people, and you get a big new tax, what do you do? You layoff an employee, you reduce wages, you stop offering health care. You have to do that or you go out of business. That is what happens.

We would like to see a debate. We think the way to reform health care is, instead of these 2,000-page bills, let's set a goal—reducing costs. Let's go step by step in that direction to re-earn the trust of the American people. Instead of talking in grand rhetoric about small businesses—they do have a plan embedded in the Finance Committee bill, but it is typically different from the plan we have proposed. Instead of allowing small businesses to pool their resources in the way I suggested so they, the small businesses, could be in control of their own health insurance, make decisions about it—no; the Democratic small business plan would not allow small businesses to pool their resources. It puts the government in charge of making decisions about what kind of insurance the small businesses could purchase. That is really a debate we ought to have.

As President Obama, correctly said earlier this year, the health care debate is not just about health care. The health care debate, said the President—correctly, I would respectfully say—the health care debate is a proxy for the role of the Federal Government in American lives. So would this debate about how to help small businesses be the same.

The PRESIDING OFFICER. The Senator has consumed 8 minutes.

The Senator from Idaho is recognized.

Mr. CRAPO. Mr. President, I would like to focus my remarks today on health care as many others have done. Actually, I am very glad to see the debate today was focused on small businesses and the impact of what we do on them.

I am surprised, however, to see those who are discussing the current legislation that is before us are discussing it as something that will benefit small businesses and will help to drive down the cost curve because, as remarkable as it may seem, this legislation that both the House and the Senate have had under consideration—hopefully what we will now see in the near future as the final product that we will be able to review—will drive up the cost curve and increase the cost of health care, not only for small businesses but for everybody in America.

If we ask most Americans what they want in health care reform, they will tell us they want to stop the spiraling cost of health care insurance. Yet the legislation we see does exactly the opposite. Over the last few weeks I have come to this floor to discuss tax increases that were contained in the health care legislation passed by the Senate Finance Committee, both in terms of the big picture and, more specifically, in terms of what it means to middle-income Americans and to small businesses and to any American who wants to answer the question: How would this bill affect me and my family?

We have already heard the answer to that question in a number of different contexts, but I think it bears repeating. Under the Senate Finance bill, if you have insurance, you get taxed. If you do not have insurance, you get taxed. If you don't want to purchase insurance, you get taxed. If you have a job, you get taxed. If you need medical devices, you get taxed. If you take prescription drugs, you get taxed. If you have high out-of-pocket medical expenses, you get taxed.

The list goes on. The reason is this legislation will create new, brandnew massive entitlement programs to the tune of what we do not clearly know yet but which will almost certainly be in the neighborhood of $2 trillion. It pays for them—or offsets the cost of those on the Treasury—by increasing taxes on the American people by hundreds of billions of dollars and by cutting Medicare by hundreds of billions of dollars.

We still do not have the ''merged'' Senate bill before us to review and debate, but we do have the House-passed bill to review. There have been a number of rumors and discussions in the media about what kind of new tax increases the Senate bill will have when it is finally disclosed. In fact, we hear we may find out, as a country—the people of America may find out tonight what this bill that has been negotiated and created behind closed doors actually contains. I would like to take a few minutes to review some of the provisions that we expect to be there.

The House version of the health bill contains more than $752 billion of tax increases. Some of these tax increases are the same ones we have already seen in the Finance Committee bill, such as the medical device tax, the $2,500 cap on flexible spending accounts, the prohibition on prepurchase health care accounts—FSAs and HRAs—and the doubling of tax penalties for those in emergency situations who must use a portion of their health savings account to pay for nonmedical bills.

There are many other new tax increases in the House bill which we have not seen in the Senate finance bill that we also need to review. From the beginning of this process the chairman of the Finance Committee has stated his intention to use only health-related offsets to pay for health-related spending. If there is to be new health-related spending, that is definitely the right approach. We all know what a difficult circumstance our country faces today when it comes to jobs. The current unemployment rate is 10.2 percent. The last thing we need to do is to enact policies that would make it even tougher for U.S. companies, particularly small businesses, to create new jobs. But, amazingly, the House bill contains more than $80 billion in tax increases on domestic U.S. job-creating companies that have no involvement in the health care industry.

Not only do these provisions violate the idea that we should be staying within the health care arena to find offsets on the health care bill, but these antijob tax increases are the last thing we need in this fragile economy. The largest tax increase in the House bill would also have a devastating effect on the job creators in our country, particularly small businesses, that are the top job creators. This $460 billion so-called ''millionaire surtax'' is bad policy for many reasons.

First, like the $80 billion tax increase on domestic companies that I just mentioned, this tax increase grabs hundreds of billions of dollars from outside the health care arena to pay for a massive expansion of a new health care entitlement.

Second, although this provision is being billed as a tax increase on millionaires, the Joint Tax Committee reports that one-third of the revenue it will generate is not from individual income of millionaires but from small businesses. As we know, many small businesses file their taxes as individuals, and it would be these small businesses, the job creators of our economy, that would be facing this new punitive surtax.

Third, although you would think we would have learned our lesson from the alternative minimum tax, like the AMT, this new surtax would also not be indexed for inflation. That means, over time, this would creep further and further down the income scale, and more and more small businesses and middle-income families would be suddenly hit by this surtax.

Fourth, this surtax would not only apply to ordinary income, it also applies to capital gains and dividend income which are currently taxed at lower rates. The capital gains and dividend rates are currently 15 percent. If Congress doesn't act before next year, the rates will go back up to the pre-2003 levels of 20 percent for capital gains and up to a maximum of 39.6 percent for dividends.

The President has said he doesn't intend to extend the current lower rates for individuals making less than $200,000 a year or for families making less than $250,000 a year. But if we add in this new surtax in the House bill, Americans above those thresholds who are currently paying a 15-percent capital gains tax rate would see their tax rate jump to 25.4 percent in 2011, and those currently paying the 15 percent dividends rate would see their rates jump to 45 percent by 2011.

Such a tax increase would violate yet another one of President Obama's tax pledges to the American people. Most of us are very familiar with his promise.

Most of us are familiar with his promise that no individual making less than $200,000 a year or a family making less than $250,000 a year would see any increase in their taxes. In fact, in his words, ''not by one dime''—not an increase of their income tax, their payroll tax, their capital gains tax. In his words, not any of their taxes. Yet we see hundreds of billions of dollars of these taxes falling squarely on the middle class. In a speech in Dover, NH, on September 12, 2008, President Obama said:

> Everyone in America—everyone—will pay lower taxes than they would under the rates Bill Clinton had in the 1990s.

This surtax clearly breaks that promise to millions of additional Americans.

Recent press reports have suggested that, in a need for even more tax revenue to pay for all of the new spending in the Senate, the Senate leader may include an increase and an expansion of the Medicare payroll tax. The Medicare payroll tax is funded by a 2.9-percent payroll tax levied on every dollar earned by employees. Half of this tax is paid by the employee and the other half by the employer, although in reality, the entire burden falls on the employee because the tax is taken from the employee's available wages. Revenue from this tax goes into the Medicare trust fund and is intended to be used for Medicare expenses when that individual enters retirement. Under this new plan, Senate Democrats are considering applying this Medicare tax to capital gains, dividends, interest, royalties, and partnerships for American families earning more than $250,000. None of this income is currently subject to the Medicare payroll tax.

In addition, Democrats are said to be contemplating raising the employee's share of this tax, currently 1.45 percent of wages, to 1.95 percent. Press reports indicate this would raise up to 40 or 50 billion new dollars in revenue. This proposal would make a bad bill even worse. It would fundamentally change the way Medicare financing occurs. By applying what has traditionally been a payroll tax to nonpayroll income and by using this money for a new non-Medicare entitlement, it breaks the link between the Medicare tax base and Medicare benefits. As the Wall Street Journal pointed out, this new tax would ''sever the link between the tax paid over a lifetime and the medical benefits received, officially making Medicare an income redistribution program.''

It would additionally hurt growth. These additional taxes on savings and investment act as disincentives for these activities which are the primary drivers of wealth creation. It would kill jobs. Imposing these new taxes would hurt small businesses. Because many small businesses pay their taxes at the individual level, imposing higher individual income taxes hurts these engines of job creation.

Finally, it doesn't fully finance health care shortfalls. According to Bloomberg, House Democrats rejected this proposal, now being considered by the Senate, ''because lawmakers concluded they may need to increase the payroll tax in the future to pay Medicare benefits that are projected to outpace revenue.'' The New York Times pointed out that ''the higher payroll tax would not be sufficient in the long run [to even protect Medicare].''

In closing, for all the talk about this need to rush the bill through so we can achieve the objective the American people seek in health care reform, the bill does not reduce the cost of medical care. It increases it. The bill does not reduce the cost curve for health care insurance. It increases it. And in accomplishing this, it also increases taxes across the board on Americans and cuts Medicare by deep rates that will cause Medicare to face insolvency even earlier than it otherwise would have.

For all these reasons, we need to slow down and start working together, step by step, to remember the original objective; that is, to bend the cost curve down and stop these spiraling increases in health care insurance that Americans are facing and that are driving American families to the edge.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Arizona.

Mr. McCAIN. Mr. President, from media reports, certainly not because Members on this side of the aisle have been told about it, I understand the majority leader is now corralling the final three Democrats, which I am sure he will succeed in doing, in order to secure 60 votes to move forward with the greatest takeover of the private sector in health care by legislation perhaps in the history of this country. Of course, I would not know that myself, nor would any Member on this side of the aisle, because of the fact that there is no communication between the majority leader and Republicans. I understand they have 60 votes. I understand they will get 60 votes. I understand that they may likely be able to railroad this through the Senate. Then, again, they will gather in a small room, and they will come out with significant changes and revisions in the form of a conference report.

I have been having townhall meetings around my State of Arizona, the

second hardest-hit State in America because of the economic downturn. I assure my colleagues on the other side of the aisle, there is a revolution going on out there. It is a peaceful revolution. They do not want increased costs of a reform commitment that would be up to $3 trillion, that would cut Medicare by $500 billion and tax Americans across the entire income spectrum by an additional $500 billion. My friends across the aisle may not have gotten the message from the elections in New Jersey and Virginia not that long ago. Americans want cost control, and they want affordable and available health care. They don't want increases in taxes. They don't want the government taking over the health care system. Yet that is what is going to be delivered.

A lot of people, may I say, may not trust the word of some of us on this side of the aisle and may think we are uninformed or we are just politicians. Maybe we ought to listen to Dr. Jeffrey Flier, dean of the Harvard Medical School. I have never been that great of an admirer of Harvard, but the dean of the Harvard Medical School states in today's Wall Street Journal, entitled ''Health Debate Deserves a Failing Grade''—and he has some criticism for this side of the aisle that perhaps is deserved—

> As the dean of the Harvard Medical School, I am frequently asked to comment on the health-reform debate. I'd give it a failing grade.
>
> Instead of forthrightly dealing with the fundamental problems, discussion is dominated by rival factions struggling to enact or defeat President Barack Obama's agenda. The rhetoric on both sides is exaggerated and often deceptive. Those of us for whom the central issue is health—not politics—have been left in the lurch. And as the controversy heads towards a conclusion in Washington, it appears that the people who favor the legislation are engaged in collective denial.
>
> Our health-care system suffers from problems of cost, access and quality, and needs major reform. Tax policy drives employment-based insurance; this begets overinsurance and drives costs upward while creating inequities for the unemployed and self-employed. A regulatory morass limits innovation. And deep flaws in Medicare and Medicaid drive spending without optimizing care.

During the last campaign, I proposed addressing the issue of employer-provided health benefits, doing away with it in return for a $5,000 refundable tax credit. Tens of millions of dollars in attack ads were leveled against it. I proposed it not because it was easy, not because I didn't think the American people didn't need straight talk. I did it because it is one of the fundamental problems with the cost of health care in America. If someone gets something for free, they are not going to be careful about the money that is spent.

Ronald Reagan once said: Nobody ever washed a rental car. He is right. So when people receive free medical care that they don't have to pay for and that they don't have to have accountability for, it is obvious that that is misused.

Again, there is the story this morning about some $49 billion in wasteful spending in Medicare. The numbers go on and on.

Why is it that the dean of the Harvard Medical School says ''the rhetoric on both sides is exaggerated and often deceptive''? Maybe it is. But the rhetoric on both sides becomes more intense because of a failure to sit down and try to work something out together. At no time during this entire, long, drawn-out process have there been serious negotiations between Republicans and Democrats. Not once. Of course, the rhetoric gets exaggerated on both sides and even deceptive. We are not doing what the American people expect us to do, and that is sit down together and work these things out on one of the greatest financial crises this Nation faces.

Dr. Flier goes on to say:

> Speeches and news reports can lead you to believe that proposed congressional legislation would tackle the problems of cost, access and quality. But that's not true. The various bills do deal with access by expanding Medicaid and mandating subsidized insurance at substantial cost—and thus addresses an important social goal. However, there are no provisions to substantively control the growth of costs or raise the quality of care. So the overall effort will fail to qualify as reform.

Dr. Flier is alleging that there is no control of the growth of costs or rise in the quality of care. We all know that the cost of health care is unsustainable. The Medicare trustees have said in 7 years it will go broke. I believe forcing more Americans into Medicaid, a public program that gets failing grades for access to care and the quality of care, is not the right approach to covering millions more Americans.

Dean Flier goes on:

> In discussions with dozens of health-care leaders and economists, I find near unanimity of opinion that, whatever its shape, the final legislation that will emerge from Congress will markedly accelerate national health-care spending rather than restrain it.

The whole problem with health care in America is not the quality of health care, it is the accessibility and affordability. Dr. Flier says ''the final legislation that will emerge will markedly accelerate national health care spending rather than restrain it.''

Dr. Flier continues:

> Likewise, nearly all agree that the legislation would do little or nothing to improve quality or change health-care's dysfunctional delivery system.

This isn't just Dr. Flier's opinion. Look at Samuelson's article the other day about the effects of what has been passed by the House and will apparently be before us. Democrats are proposing a $3 trillion expansion of government health care, including $1 trillion in Medicare cuts and tax increases. But experts tell us the legislation would do little or nothing to improve quality or change health care's dysfunctional delivery system. Senate committees have spent months writing bills and spinning the benefits of legislation, and experts tell us the efforts fail the basic test.

On March 5 of this year, the President is quoted as saying:

> If people think we can simply take everybody who's not insured and load them up in a system where costs are out of control, it is not going to happen. We will run out of money. The federal government will be bankrupt; state governments will be bankrupt.

The President is right. But the Democratic leadership writing these bills is not listening. Partisan reform designed behind closed doors will bankrupt this country, in effect committing generational theft. The majority leader continues to put his bill together in a secret committee of one with a deaf ear to what experts tell us is needed. And we wait. We wait with great anticipation to see how high taxes and fees will be increased. We wait with great anticipation to finally understand how Senate Democrats will force a government health insurance entitlement into our health care market. We will wait to see how much they will cut Medicare. And these are Medicare cuts, my friends, have no doubt about it. We will wait to see the new mandates on individuals and employers to buy government-designed insurance.

We already know that the Senate Finance Committee bill includes roughly $508 billion in new taxes on individuals and businesses.

Beginning in January of 2010, health insurers would also be required to pay annual nondeductible fees totaling $60.4 billion over 10 years.

Beginning in January of 2010, medical device manufacturers are required to pay $40 billion in new nondeductible fees.

Beginning in January 2010, prescription drug manufacturers are required to pay $22 billion in new nondeductible fees.

By the way, in case my colleagues missed it, surprise, surprise, the pharmaceutical industry has now dramatically increased their prices, while the cost of living has gone down. What a shocker. Those great people from the pharmaceutical lobby who have been willing to make such ''sacrifices'' for the American people are raising their prices in an unprecedented fashion, totally disconnected to the absolutely nonexistent increase in the cost of living. And the administration continues to oppose drug reimportation from Canada, where seniors could get prescription drugs for about half of what it is now costing them.

Beginning in 2013, Democrats raise taxes by $201 billion by increasing taxes by 40 percent on certain family health care plans with higher coverage values, payable by insurance companies or employers.

Beginning in 2013, taxpayers who deduct medical expenses on their tax returns will pay $15 billion more in taxes.

Taxes on individuals who fail to maintain government-approved health insurance coverage will pay $4 billion in new penalties, breaking President Obama's promise that no one with income under $250,000 would pay higher taxes.

Businesses that are struggling to keep the doors open and keep workers employed in this recession will see higher taxes of $23 billion in the form of mandates and penalties for failing to offer government-approved health insurance.

Again, I urge my colleagues to read the article in the New York Post entitled ''Obamacare: Buy now, pay later'' by the well-respected economist Robert Samuelson. He writes:

There is an air of absurdity to what is mistakenly called ''health-care reform.'' Everyone knows that the United States faces massive governmental budget deficits as far as calculators can project, driven heavily by an aging population and uncontrolled health costs. As we recover slowly from a devastating recession, it's widely agreed that, though deficits should not be cut abruptly (lest the economy resume its slump), a prudent society would embark on long-term policies to control health costs, reduce government spending and curb massive future deficits. The administration estimates these (deficits) at $9 trillion from 2010 to 2019. The president and all his top economic advisers proclaim the same cautionary message.

So what do they do? Just the opposite. Their far-reaching overhaul of the health-care system—which Congress is halfway toward enacting—would almost certainly make matters worse. It would create new, open-ended medical entitlements that threaten higher deficits and would do little to suppress surging health costs. The disconnect between what President Obama says and what he's doing is so glaring that most people could not abide it. The president, his advisers and allies have no trouble. But reconciling blatantly contradictory objectives requires them to engage in willful self-deception, public dishonesty, or both.

Those are not my comments, Mr. President. Those are the comments of Robert Samuelson, one of the most respected economists in America.

I want to take another minute to talk about how the influence of special interests—I mentioned the pharmaceutical companies and the deal they cut so the administration would oppose drug importation from Canada, that there would not be competition for Medicare patients. But let me talk about probably the most powerful force in this whole discussion of legislation, and that is the trial lawyers of America.

There is no provision for medical liability or medical malpractice reform in this legislation. In fact, it was passed by the House that if States have enacted reforms, they will not be eligible for any additional funding to try and fund demonstration projects to reduce the cost of medical malpractice.

Everybody knows, ask any physician, they will tell you, they practice defensive medicine. They do so because of their fear of finding themselves in court and being wiped out. Sometimes these additional procedures and tests are not so comfortable for the patient, but, most importantly, they dramatically increase costs. Time after time after time, any effort we have made to put in medical malpractice reform—and we will do it again when the majority leader gives birth to whatever you want to call this—then, the fact is, they are not seriously interested in reducing costs, but they are seriously dependent on the largesse and generosity of the trial lawyers of America, and it is an outrage. It is an absolute outrage.

I would point out, when the President talks about, ''demonstration projects,'' there is a demonstration; it is called Texas. The State of Texas was hemorrhaging doctors and physicians and medical care practitioners. They reformed the medical malpractice. There have now been reductions in premiums. There have been reductions in lawsuits. There have been doctors and physicians and medical care providers flowing back into the State of Texas. It is proven. It is not everything we want. But it shows that medical malpractice reform can reduce health care costs.

And what have my friends on the other side and a couple on this side done? They have refused to consider in any significant way what everyone agrees could reduce health care costs in America. Outrageous. So do not be surprised when our approval rating is 18 percent. The approval rating of Congress: 18 percent. And in the townhall meetings I have been having, I have not met anybody in that 18 percent.

We need truth and honesty in our national discussion on health care reform, not spin, not budget gimmicks, not cuts to Medicare, not higher taxes, not government takeover, and not trillions in new health care spending.

We have $12 trillion in debt, 10 percent unemployment—17 percent real unemployment in my State—and an economy that is still struggling. Meanwhile, Wall Street makes obscene profits and bonuses that are unbelievable. We cannot afford another $3 trillion open-ended health entitlement. Americans deserve an honest discussion of ideas without artificial deadlines, and real solutions that will bring our skyrocketing health care costs under control.

Finally, I guess we are told that maybe this evening there may be something that will emerge with white smoke from the majority leader's office and we will be given the manifesto that he will call health care reform, and that will begin a great debate. I believe the question will be: Will the special interests and the big spenders and those who are in favor of government control of health care in America win or will the American people win?

That is why the American people are aroused. If they stay aroused, and if we continue to see the tea parties and the townhall meetings and the expressions of anger and frustration the American people feel, we will beat this back and we will go back to the bargaining table—for the first time we will go to the bargaining table and sit down, Republicans and Democrats, together.

History shows there has been no successful reform in America without bipartisanship, and I do not believe this will be the first one. I hope—I hope and pray—it will not be.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, one of the hallmarks of the Democrats' health care bill is that it spends a tremendous amount of money—more than $1 trillion. When the true 10 year costs are reflected, it is actually well over $2 trillion. That is a hefty price tag, and most Americans want to know who is going to pay for this.

Contrary to what Democrats want you to believe, this bill will be paid for by all Americans, including low- and middle-income families and small business owners. So for the next week, I want taxpayers as they go about their daily activities to take a moment to understand why they will be paying a new tax for each day of their hard-working week.

Monday is not usually a favored day for most folks during the week—and if this health care reform passes, it will be absolutely a miserable day for families making less than $200,000 a year. That is because 91 percent of you will start the week off by paying a $200 billion tax on health insurance.

I have talked about this before at length, this so-called tax on ''Cadillac'' plans. It is actually a 40-percent tax on high-cost premium ''Cadillac'' plans. But the people who are going to pay for these plans and for this tax are more likely driving minivans, used cars, and cars that are paid off. That is because it disproportionately impacts middle-income families.

That is new tax No. 1. But there are more.

The 40-percent insurance plan tax is what I just talked about. But all told, there are seven new taxes in this health care bill, and maybe more to come. These new taxes, as shown on this chart, fall on some people directly and on others indirectly. The nonpartisan Joint Tax Committee testified that these new taxes—however they are named—will act as excise taxes and will be passed on to consumers to some extent.

So, on Tuesday, as your kids are getting ready to get off for school, do not forget that you will be paying higher taxes on insurance premiums because of a new tax on insurance companies. It is the insurance tax. I want to quote a letter the Joint Tax Committee wrote. Remember, this is the nonpartisan Joint Tax Committee. They wrote to me in response to my concern over this debilitating tax. I quote:

An insurer offering a family health plan that exceeds the excise tax threshold and is subject to the excise tax faces an increase in the cost of offering that health coverage. Generally, we expect the insurer to pass along the cost of the excise tax to consumers by increasing the price of health coverage.

So Tuesday is not a great day either in this new week of taxes.

On Wednesday, our small businesses—the engine of our economy—will be taxed if they do not offer health insurance. That is the employer tax, tax No. 3. The employer tax will hit small businesses and make it more expensive to hire workers. I do not think that is a good idea when the Nation is facing an over 10-percent unemployment rate. Those who are hired will see their wages reduced because of the required employer ''responsibility'' payments. That is what they are called.

The Congressional Budget Office—which again is a nonpartisan entity—has explicitly stated:

> Although the surcharges would be imposed on the firms, workers in those firms would ultimately bear the burden of those fees. . . .

The tax credit to small businesses does little to help because it only helps firms with 25 employees or less, and it is temporary. Also, this tax credit drops off so suddenly for firms with more than 10 employees that some firms will be penalized—actually penalized—for adding jobs or raising workers' pay—clearly, a perverse incentive.

So Wednesday is clearly not a good day for small businesses or their employees, especially those making minimum wage. So I hope you didn't have to call in sick on Thursday, because if you go to a doctor and get a prescription, there is a new tax on the pharmaceutical companies that you will pay. This is tax No. 4, the drug tax. Don't think about using your health savings account or flexible spending account for the over-the-counter medication you need as well. Under the House plan, nonprescription medications can no longer be purchased with moneys from these accounts, and under the Senate plan, there is a $2,500 cap for pretax dollars that can be used in these accounts. The weekend is so near on Friday; but wait, if you need some lab work done, you will have to pay a new tax on clinical laboratories. This is the lab tax.

You think your work is over on Saturday, but you will still be paying more taxes under this bill. If you need surgery, there is a new tax on medical devices, such as pacemakers, prosthetics, and hearing aids. This is No. 6. This raises the cost of health care. This is passed on to the consumers. All these taxes have one thing in common: They do raise the cost of health care for middle-income Americans.

My Democratic colleagues may claim they are raising taxes on health care companies, not people, and people will be better off once all this tax money is collected in Washington and then used as subsidies. The truth is, the people are paying and many are in the middle class who Democrats claim would be spared. It is true some people may, on a net basis, get more subsidy than they pay in higher taxes, but over 46 million middle-income families will pay more than they receive. In other words, their health care costs in the net are going to go up. They lose under this health care bill and these are middle-income Americans.

According to the analysis from the nonpartisan Congressional Budget Office, from which I wish to quote now, these taxes:

> Would increase costs for the affected firms, which would be passed on to purchasers and would ultimately raise insurance premiums by a corresponding amount.

So now it is Sunday, historically a day of rest but not for these new taxes. There is one more tax that again falls squarely on lower and middle-income families, a penalty excise tax for failure to obtain insurance. That is tax No. 7. We are faced with a bill where, according to the Congressional Budget Office, at least seventy-one percent of the individual mandate penalties would fall on the backs of American families making less than $120,000 a year. Remember what the President said: No new taxes on anybody making $250,000 a year or less. Actually, probably over 90 percent of this tax will be paid by those on whom the President said not one dime in new taxes will be raised. Yet under this bill that is coming before the Senate, their taxes are raised and they are raised significantly.

Well, we have run out of days of the week, but the Democrats are not finished yet. If you have been using pretax dollars in a flexible spending account, which most Federal employees have and a lot of other people who are employed by other companies have as well, and you pay for services not covered by your plan, such as speech therapy for a child with autism, you are out of luck under this bill. As I said earlier, the Federal spending accounts are capped at $2,500 in this bill, so your income tax will rise as well as your medical expenses. If you have been dealing with extraordinarily high medical expenses and have been counting on qualified medical expenses tax deductions to pay for care or tuition for a special needs school, again, you are out of luck. The itemized deduction bar will be raised from 7.5 percent to 10 percent of your income in this bill. In other words, this bill hurts those who are being hit hardest by medical catastrophes.

In committee, my colleagues and I on the Republican side tried to inject some limits to this tax mania. We offered an amendment to carve out lower and middle-income families from paying taxes. I offered an amendment to protect the middle class, specifically, from the onerous penalty excise tax for those who fail to obtain insurance. Unfortunately, on party-line votes, the Democrats voted down those amendments.

I offered an amendment to eliminate the growing threat that the 40-percent insurance tax posed to every American with insurance, but, once again, the majority voted it down. We offered amendments to strike some of these specific, heavy-handed new taxes, but, once again, the majority, on party lines, voted them down. We tried to apply limitations so these taxes would not go into effect if they caused consumer costs to rise. The majority, again, voted them down. We tried to prevent these new taxes from hurting veterans, but as Democrats first accepted it, they then passed a second amendment to eliminate the protections. We tried to ensure that vulnerable Americans would not be hit with a tax increase on catastrophic medical costs. Again, the Democrat majority in committee voted it down. After losing every attempt to remove these new, onerous taxes, we tried to preserve the ability of Americans to continue to use their flexible spending accounts. Once again, that was voted down by the majority.

There are at least seven brand new taxes in this bill—one, two, three, four, five, six, seven new taxes—with more taxes being discussed. Before the final bill is completed, I am sure there will be more taxes in this bill. The House bill has a surcharge on small businesses. They are also talking about adding a value-added tax, which would be a regressive national sales tax on everyone, and a new windfall profits tax on insurance companies. There is even talk of a tax on soda pop. All these taxes do is cost Americans more money without giving them much in return. Even if the spending in this bill was worthwhile, these sweeping and unreasonable taxes would more than outweigh the benefits.

It is very clear America's lower and middle classes will bear the brunt of these new taxes. On top of that, they will not be allowed to keep the insurance plans they have. Instead, they will be forced into a new experimental system that will succeed only in exploding our deficit spending for generations to come.

So where is the break for hard-working families, we have to ask. Under this plan, they pay for government-run insurance to cover more Americans. They lose their own insurance—many of them—along the way, and they watch as deficits continue to eclipse their children's futures. That is not even close to the American way.

On behalf of millions of American workers, families, and small businesses that sent us to Washington to be their voice, I cannot stand by and watch the majority destroy our chance for meaningful health care reform that does not bankrupt our Nation. I am going to do everything in my power to stop these new taxes from becoming reality. I am confident, with the American people behind us, we can stop these new taxes. We can start over, in a bipartisan way, and go step by step and come up with health insurance reform that controls costs, preserves and even improves quality, and doesn't end up with a government-run health care system that cuts over $500 billion in Medicare and raises $500 billion in new taxes.

I urge our colleagues to work together—not as Republicans and Democrats but as Americans—so we can preserve the quality of health care we have enjoyed in this country for so long but do it in a way that is more affordable and provides more access to more Americans.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

TRIBUTE TO GOVERNOR BRUCE KING

Mr. BINGAMAN. Madam President, this week, New Mexicans of all political persuasions have been recalling the life of a legendary figure of our State, Bruce King, who served as Governor during three different decades and who taught by example that public service is an honorable calling.

Governor King died last Friday at the age of 85. He used to tell the story about a former Governor who was the graduation speaker at Bruce's high school graduation. The former Governor looked at the very small class of teenagers and said:

> One of you could grow up to be governor of this state.

Bruce looked around at his other classmates and figured that the Governor had to be speaking to him. Sure enough, in the course of time, and after serving as Santa Fe County commissioner, a State legislator, and speaker of the house in New Mexico, he was, in fact, elected Governor. In fact, he served as Governor for 12 years, longer than anyone else in the history of New Mexico.

In all of those years, he never failed to make the people of New Mexico his first priority. With him at every step of the way, from their ranch in Stanley to Santa Fe and back again, was the remarkable Alice Martin King, his wife. She was a great force in her own right. She was a champion for children in our State. She died last December.

My own history with Bruce King began when I was just out of law school. I was serving then as an assistant attorney general in New Mexico and was assigned the job of being counsel to the constitutional convention which our State had in 1969. Bruce, who was then speaker of the house, was elected president of that convention. I learned a great deal about the legislative process and about New Mexico history and about our State in general as a result of the effort to work with Bruce in that capacity. His management of the process and the people involved with the constitutional convention was masterful. He was always inclusive, he was always listening, and he was always working to get the best result. In short, he was the model of a legislative manager.

Today I recall being privileged to serve as attorney general during Bruce's second term as Governor, from 1979 to 1982. We worked closely together on a number of issues. I was impressed all over again at his knowledge of New Mexico and his genuine love for its citizens. He was gregarious and kind. He never knew a stranger. He shook hands with everyone in our State. He shook every hand in our State, whether there was a voter attached to it or not. People were delighted to see Bruce coming and to hear his famous reply when asked: How are you doing, Governor? He would reply: Mighty fine—regardless of how difficult the circumstances the State and he were facing.

Our friendship extended for 40-plus years. With my fellow New Mexicans, I will miss him greatly. His sons Bill and Gary, his brothers Don and Sam, and the entire King family have lost tremendously. Every New Mexican feels this loss and joins his family in honoring his life.

Mr. UDALL of New Mexico. Mr. President, I rise to celebrate the life and mourn the passing of one of New Mexico's great public servants. This past Friday Bruce King, the three-time Governor of New Mexico and a constant advocate for regular folks, for the average person, left this world after 85 years of devotion to his family, to his community, and to his State.

Bruce King was a self-made man who came from modest roots. Back in 1918, his parents traveled to New Mexico from Texas and traded their Model T for a homestead tract where they raised Bruce and his siblings. Along the way the elder Kings instilled in their children an appreciation for a hard day's work, a compassion for people, and a love of public service.

Bruce carried those lessons into adulthood and into a life defined by public service. He served in the Army in World War II, as a Santa Fe County commissioner, as a member of the New Mexico House of Representatives and later speaker of that same House of Representatives and, finally, as a three-term Governor elected in 1970, 1978, and then, once more, in 1990.

Bruce's legacy as Governor will be felt for generations. Due in no small part to the advocacy of his devoted wife Alice, Governor King created a new cabinet level department focused on the welfare of New Mexico's children. We called it the Children, Youth and Families Department. Thanks to Bruce and Alice's vision, more New Mexico children are safe and secure. More are healthy and ready to learn, and more have the support they need to follow their dreams. Governor King's contributions didn't end there. His leadership was instrumental to the creation of New Mexico's large and enduring rainy day funds which to this day continue to provide substantial support for education. He reformed New Mexico's school funding formula so that money is equally distributed across the State. Thanks to Governor King, State education funding now follows the student, regardless of income or geography. He also was an advocate for aggressive economic development, recruiting a new Intel plant to Rio Rancho, for the creation of a better, safer Statewide road system, and for the establishment of a new border crossing with Mexico.

But despite all of these achievements, what New Mexicans will most remember Bruce for is something more simple and much harder to come by in politicians these days. Bruce was not in politics for the power, for the prestige. He was in politics because of the people. He loved the people of New Mexico and the people of New Mexico—from Lordsburg to Clayton to Shiprock and Carlsbad and everywhere in between—loved him right back. Bruce enjoyed nothing more than talking to New Mexicans. Almost every morning you would find him doing just that at El Comedor Restaurant in Moriarty, NM. He had a booming voice and was famous for greeting friends and strangers alike with a handshake and a down home ''How y'all doing? Fine. Fine.''

I will always remember Bruce as a true cowboy from Stanley who had the most generous spirit. He always saw the best in people. He always did the right thing for New Mexico. My family was fortunate to call Bruce and Alice our friends. Our daughter Amanda even went to work for Alice in her first job out of college. She stayed close with both of them, ever since.

New Mexico will miss the Kings. We all know our State is a better place for their service and dedication to its people. As Governor King is laid to rest this week, I ask my colleagues to join me in honoring this remarkable public servant.

MORNING BUSINESS

Mr. BINGAMAN. I ask unanimous consent that the Senate be in 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.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MURKOWSKI. I ask unanimous consent that the order for the quorum call be rescinded.

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

NOMINATION OF DAVID HAMILTON

Ms. MURKOWSKI. Madam President, when the Senate considers the nomination of David Hamilton to the Seventh Circuit U.S. Court of Appeals later this afternoon, I intend to vote no. Some may regard this as perhaps inconsistent with my vote yesterday when I joined with a number of my colleagues on this side of the aisle in voting for cloture on the nomination. I certainly do not regard the two positions as inconsistent.

While I do not believe this nominee should be confirmed, I do believe judicial nominees deserve a straight up-or-down vote. I have come to the Chamber today to explain my views on the Hamilton nomination and expand upon why I voted as I did yesterday.

Our process for consideration of judicial nominees is broken. It has been broken since I came to the Senate in 2003. In fact, on April 30, 2003, I was among 10 freshman Senators, bipartisan, who wrote our respective leaders to say the confirmation process needed to be fixed. For reasons I can't fathom, we still seem to be light-years away from a process in which a President's judicial nominees come to the floor expeditiously for a straight up-or-down vote. This is a far cry from the process I am told the Senate adhered to prior to 2001 when there existed a strong presumption against the filibuster of judicial nominees. A cloture vote on a nomination was virtually unprecedented.

I understand all of that changed in February of 2001 when our colleagues on the other side of the aisle decided they would engage in the regular practice of blocking the confirmation of courts of appeals nominees with whom they had ideological disagreements through the use of the filibuster process.

Miguel Estrada, deemed ''well-qualified'' by a unanimous vote of the American Bar Association, had to suffer through seven failed cloture votes. This was in his bid to serve on the DC Circuit. Finally, he decided to move on with his life.

Priscilla Owen, also a recipient of a unanimous ''well-qualified'' rating by the ABA, suffered through four failed cloture votes before ultimately being confirmed to the Fifth Circuit.

David McKeague, a Sixth Circuit nominee, unanimously deemed ''well-qualified'' by the ABA was filibustered. I could go on.

In the 2003 letter, my cosigners and I noted that in some instances when a well-qualified nominee for the Federal bench is denied a vote, the obstruction is justified on the ground of how prior nominees, typically the nominees of a previous President, were treated.

Without doubt, a number of President Bush's nominees to the U.S. court of appeals were treated unfairly by this body. Off the top of my head, I can probably count 11 nominees to the courts of appeals, each of whom was deemed qualified to serve by the American Bar Association raters, many ''well-qualified'' in that rating, who had to suffer the filibuster.

It would not be my place to venture an opinion whether this entered into the cloture debate yesterday. However, I wish to make clear this is not how I evaluate judges for confirmation. In voting to end debate on the nomination of Judge Hamilton, I wanted to make the point that the qualified nominees of a President to the Federal bench deserve a straight up-or-down vote. This is what I believe the Constitution expects of this body in most cases.

Having said that, I have substantial concerns about the elevation of Judge Hamilton. I have considered his record on the Federal district court in Indiana as well as criticisms of his record. I regard it as my personal responsibility to consider these matters. My confirmation votes reflect my personal judgment as to the qualifications of the nominee.

As a Senator and as a mother, I have grave concerns about Judge Hamilton's judgment in recommending executive clemency for a 32-year-old police officer who was convicted of violating Federal child pornography laws. The defendant pled guilty to Federal charges that he photographed in one case and videotaped in the other sexual encounters with two women, one age 16 and the other age 17. Although it may have been lawful for the defendant to engage in these encounters under the laws of Indiana, it is not lawful to photograph them under the laws of the United States.

Judge Hamilton went out of his way to argue that the 15-year mandatory minimum sentence imposed by Congress for such violations was a miscarriage of justice in this case. He argued vociferously that executive clemency is warranted. This Senator does not understand why Judge Hamilton would choose this cause to champion. While I understand Judge Hamilton has imposed substantial sentences in other child pornography cases, I do not agree with his reasoning in this matter and cannot, in good conscience, support his confirmation.

With that, Madam President, I appreciate the attention of the Chair. 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. INHOFE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF PROCEDURE

Mr. INHOFE. Madam President, it is my understanding—and I wish to reaffirm this with a unanimous consent request—that I will be recognized at the hour of 1:30 for, let's say, 1 hour 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

HEALTH CARE REFORM

Mr. CASEY. Thank you very much, Madam President.

I rise this afternoon to speak about health care. We all have been concentrating on this issue for many months, and we are now into a period of time when we will be getting a bill very soon to the floor. That is our hope and our expectation.

One of the parts of the Health, Education, Labor, and Pensions Committee bill that I voted on, as did the Presiding Officer this summer back in July when we passed our bill out of committee, one of the real priorities in that bill, and what I believe will continue to be a priority in the final legislation before the Senate, is children and what happens to children as a result of health care reform. We have a lot to be positive about in terms of legislation over the last decade or more as it relates to children, and I will speak about that.

In terms of that guiding principle, I have a very strong belief—and I think it is the belief of a lot of people in this Chamber and across the country—that every child in America—every child in America—is born with a light inside them. For some children, that light is limited by circumstances or their own personal limitations, but no matter what that light is, we have to make sure the light for their potential burns as brightly as we can possibly ensure. For some children, of course, that light is almost boundless. You almost can't measure it because the child has advantages other children don't have or they have a family circumstance that allows them to grow and to develop and, therefore, to learn and to be very successful. But I believe every child in America is born with a light, and whatever the potential is for that child, we have to make sure he or she realizes it. We have a direct role to play. Those of us who are legislators, those of us who are working on the health care bill have an obligation, I believe, to make sure that light shines ever brightly.

One of the other themes under this effort to expand health care for Americans is to focus on children who happen to be either poor or who have special needs. I believe the goal of this legislation, as it relates to those children, those who are poor or children with special needs, is four words: ''No child worse off.'' We need to ensure that a

poor child isn't worse off at the end of this debate and enactment of health care reform and that a child with special needs is not worse off. I think that is the least we should do when it comes to protecting our children.

There are at least two programs—one older than the other but both very important—that relate to our children. The older of the two programs is the Medicaid Program. It has been around for more than 40 years now. Medicaid, as it pertains to children, is a program we have come to rely upon to provide children with very good medical care, the best medical care, in some ways, that a child can have. We have to make sure we pay attention to how Medicaid is treated in this bill. We will talk a little bit more about that in a moment.

In Pennsylvania, the State I represent, we have a 15-year experiment with the Children's Health Insurance Program or CHIP. The one thing we know about CHIP is it works. It works very well for children. As we know, in a general sense, the Children's Health Insurance Program is for children of low- and middle-income families in America who can't get coverage from their employer, for one reason or another, and don't have a family income that is low enough to qualify for Medicaid. So it fills a gap that had been there for years. We know, with regard to the Children's Health Insurance Program, today there are about 7.8 million children covered. That is wonderful. I am very proud and happy about that, but we are even happier and more positive about the future because the reauthorization of the Children's Health Insurance Program means that by 2013, 7.8 million children covered will rise to 14.1 million children. So an easy way to think about children's health insurance is 14 and 13: 14 million kids covered in the year 2013. That is a tremendous achievement—historic in American history. We have never had anything close to that, to have 14 million children covered in a good program such as CHIP.

The caveat to that is we still have millions—by some estimates 8 million—of children who will not be covered even in 2013. One of the reasons we are debating health care reform is to make sure we are doing everything possible to strengthen the Children's Health Insurance Program and do not allow it to be weakened in any way.

One way to weaken it—and fortunately the Senate Finance Committee did not do this in their final bill—is to take a stand-alone, successful, effective Children's Health Insurance Program and put it in the health insurance exchange. It may sound good—within one system—but I believe, and many others believe, it would be very bad. The Finance Committee, led by Senator ROCKEFELLER, worked very hard to make it possible to keep the Children's Health Insurance Program as a separate stand-alone program. I believe we have to do that.

As we know, legislation passed recently in the House. The health care bill got through not just the committees but through the House itself. One of the problems with the House bill is it would end the Children's Health Insurance Program in 2013. We don't want to do that. We want to make sure, in the Senate, we do it differently than the House did.

One component that is good about the House bill on this subject, however, is it does expand Medicaid. The House bill expands Medicaid for children to 150 percent of poverty for all States, and States would get assistance in paying for this expanded population. But then there is another caveat in terms of what I think has to be improved upon in the Senate. Children above 150 percent of poverty will go into a new exchange, which I think is, as I said before, the wrong way to go. We want to make sure, if something such as that were to happen, they would have cost-sharing protections and better benefits. Unfortunately, if they go into that exchange, they would not. This could have a direct impact on a State such as Pennsylvania. By one estimate, in Pennsylvania alone, this means that nearly 100,000 children who currently have children's health insurance coverage would lose it because of that change. So we want to make sure we don't go in the direction the House did as it relates to this issue of children's health insurance and the exchange—keeping it out of the exchange.

We do need to expand Medicaid for children and we need to maintain CHIP as a stand-alone program. What are some of the numbers here? We are talking about nationally, in the Medicaid Program, 30 million children enrolled in Medicaid. As I said before, enrolled in CHIP are 7.8 million kids. Putting them together we have one-third of all children in America covered by those two programs. But as I said before, we still have plenty—millions and millions—of children who still are not covered by either program.

We hear a lot of acronyms around here, but one important acronym for this debate, as it relates to children and to health care, is EPSDT: early pediatric screening diagnosis and treatment. The American Academy of Pediatrics has called EPSDT the ''gold standard'' for children's health care. This is essential that we keep that kind of standard in place. That means Medicaid, for example, covers all medically necessary treatment for children, including preventive care, primary care, dental, hearing, vision, and it goes down the list.

Unfortunately, sometimes people say: Well, under commercial coverage you will get as much coverage for children of the same quality. Unfortunately, that is not true. There may be advantages to provider networks of commercial coverage for families who are wealthy enough, have the means to afford it and who can get out of the network and pay for something extra, but, of course, many families don't have that benefit.

I wish to spend a couple moments on EPSDT. I will go to the first chart. The Commonwealth Fund and George Washington University did an excellent comparison of the benefits between commercial insurance and Medicaid. The first benefit we have on this chart is called developmental assessment. Some of these terms get a little long and there is a lot of policy jargon. One of the most important things for any child, especially very young children, is to have regular and high-quality developmental assessments, so we can catch anything that might be going wrong at an early enough age and give that child the benefit of early intervention and treatment in the dawn of their lives, in the early months and years of their lives. We can see, under Medicaid, for example, that this developmental assessment is covered. We can also see that under the Federal Employees Health Benefits Plan, there is a lot of verbiage there which I will not read, but suffice it to say it is limited. It is not covered to the extent it is in Medicaid.

Another example is this phrase down here: ''Anticipatory guidance,'' another fancy term of policy, but it is this simple: It is helping parents understand what they should be expecting from their child physically, emotionally, and developmentally so they can get help, as I said before, early enough in the life of that child. This kind of guidance, again, is covered under Medicaid but not explicitly covered under the Federal Employees Health Benefit Program, which, as a beneficiary of that program, is a great health insurance program for Federal employees, but even something that significant, in terms of coverage and quality, would not be, in my judgment, good enough for poor children who should be covered in terms of developmental and anticipatory guidance with their parents under Medicaid. So Medicaid is better for poor children than even something as significantly good as the Federal employees plan.

Let me go to the next chart. I know we are getting close to our time and I will be observing that. This chart shows EPSDT as it relates to physical, speech, and related therapies. We have heard horror stories from mothers of children with disabilities—either mild or severe. Physical therapy, speech therapy, and occupational therapy, these are all critical to a child who may have a disability. Sometimes early intervention can help a child recover to normal functioning and sometimes it is a disability that persists throughout a child's life. Under Medicaid, again, beyond the medically necessary threshold, basic therapies, such as physical, speech, and occupational therapy, are covered without limitation. I think it is vitally important we ensure that under Medicaid we continue to fortify that program so our children can get that kind of quality coverage.

Let me conclude with a couple thoughts, very briefly. No. 1 is, at the

end of this process of getting a health care bill enacted, I believe we have to live up to that basic standard of four words for poor kids: ''No child worse off'' at the end of the road. Dr. Judith Palfrey, a pediatrician, child advocate, and president-elect to the American Academy of Pediatrics, spoke at one of our hearings earlier this year, and here is what she said:

Sometimes, we as child advocates find it hard to understand why children's needs are such an afterthought and why, because children are little, policymakers and insurers think that it should take less effort and resources to provide them with health care.

I think that challenges all of us to make sure children are not second-class citizens when it comes to health care reform and what we do.

Let me conclude with this thought: As I said before about that bright light inside every child who is born, we have to do everything possible to make sure that at the end of the road, at the end of this debate, and at the end of voting on this bill, we ensure that that light burns ever brightly, especially for children who happen to be poor or have special needs.

With that, I yield the floor and 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. INHOFE. 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. INHOFE. Madam President, I understand that according to the unanimous consent agreement, I have the floor for a period of time now.

The PRESIDING OFFICER. The Senator is correct.

GLOBAL WARMING

Mr. INHOFE. Madam President, next month, thousands of U.N. delegates from over 190 nations, members of the press, and eco-activists from around the world will descend upon Copenhagen as a part of the U.N. Conference on Global Warming. Yet, even before it begins, that U.N. conference is being called a disaster.

Just this morning, the Telegraph—a UK newspaper—noted:

The worst-kept secret in the world is finally out—the climate change summit in Copenhagen is going to be little more than a photo opportunity for world leaders.

Not too long ago, however, the Copenhagen meeting was hailed to be the time when an international agreement with binding limits on carbon dioxide and other greenhouse gases would finally be agreed upon.

The eco-activists believed that with a Democratic President in the United States and a Democratically controlled House and a Democratically controlled Senate, we would finally push through mandatory cap-and-trade legislation, and the United States would finally be ready to succumb to the demands of the U.N. I say demands of the United Nations because there are so many people in this Chamber who think if something isn't multinational, U.N. or something else, it is not good. You have to ask: Whatever happened to sovereignty in this country?

Not too long ago, the Copenhagen meeting was hailed as a time that all this would come to an end and they would be successful and pass in this country the largest tax increase in history. In reality, it will be a disaster. Failure comes at a high cost. Despite the millions of dollars spent by Al Gore, the Hollywood elite, the U.N., climate alarmists, it has failed.

Perhaps the Wall Street Journal said it best in an article entitled ''Copenhagen's Collapse.'' I will read this because I think it is worthwhile:

The Climate Change Sequel is a Bust.

The editorial states:

''Now is the time to confront this challenge once and for all,'' President-elect Obama said of global warming last November. ''Delay is no longer an option.'' It turns out that delay really is an option—the only one that has worldwide support. Over the weekend, Mr. Obama bowed to reality and admitted that little of substance will come of the climate change summit at Copenhagen next month. For the last year, the President has been promising a binding international carbon-regulation treaty a la the Kyoto Protocol.

We remember that.

But instead, negotiators from 192 countries now hope to reach a preliminary agreement that they'll sign such a treaty when they meet in Mexico City in 2010.

Wait a minute. That is 2010. That is next year. This year, it hasn't even come yet. This is Copenhagen 2009.

I am continuing to read:

The environmental lobby is blaming Copenhagen's preemptive collapse on the Senate's failure to ram through a cap-and-trade scheme like the House did in June, arguing that ''the world'' won't make commitments until the United States does. But there will always be one excuse or another, given that developing countries like China and India will never be masochistic enough to subject their economies to the West's climate neuroses. Meanwhile, Europe has proved with Kyoto that the only emissions quotas it will accept are those that don't actually have to be met.

We say that because many of these Western European countries made commitments for emissions and they have not met them.

During my position as chairman and ranking member of the Environment and Public Works Committee, since 2003, I have been the lead Senator standing and exposing the science, the cost, and the hysteria about global warming alarmism. I will be traveling to Copenhagen leading what has been called the truth squad, to say what I said 6 years ago in Milan, Italy. Let's keep in mind what these meetings are. The U.N.—that is where this all started, with the IPCC at the U.N.—said that the world is going to come to an end because of CO_2 emissions. They started having these meetings, and they have had—I don't know how many. They started in 1999, I think. They had the one in Milan, Italy, in 2003, the only one I went to. They were inviting all the countries to come in and join this club, saying we are going to do away with CO_2.

It is interesting that one of the participants I ran into in 2003 was from West Africa—and I remember this well because I knew this guy knew better. I said: What are you here supporting this for? He said: This is the biggest party of the year. We have 190 countries coming in, and it is a big party. It is all you can eat and drink. So anyway, the United States is not going to support a global warming treaty that will significantly damage the American economy, cost American jobs, and impose the largest tax increase in American history. Further, as I stated in 2003, unless developing countries are part of the binding agreement, the United States will not go along, given the unemployment rate of 10 percent—10.2 now—and given all the out-of-control spending in Washington. The last thing we need is another 1,000-page bill that increases costs and ships jobs overseas, all with no impact on climate change.

That was in Milan, Italy. I remember in Milan, Italy, all the telephone poles had my picture on them, ''wanted'' posters, because of something I said, which I will quote in a minute. I said then that the science was not settled, and it was an unpopular view. Since Al Gore's science fiction movie, more and more scientists, reporters, and politicians are questioning global warming alarmism. I am proud to declare 2009 the year of the skeptic, the year in which scientists who question the so-called global warming consensus are being heard.

Rather than continue down a road that will harm the U.S. economy and international community, we should forge a new path forward that builds on international trade, new and innovative technology, jobs, development, and economic growth.

If you have followed the Senate, you will know that the Senate's position on global warming treaties couldn't be more clear. In 1997, let's remember what happened then. President Clinton and Vice President Al Gore were attempting to get us to ratify the Kyoto treaty. We passed something in the Chamber called the Byrd-Hagel resolution. It passed 95 to 0. It said this: If you bring back anything from Kyoto or anywhere else for us to ratify, and if that treaty we are supposed to ratify either doesn't include developing countries or is harmful to our economy, then we will not ratify it. I think the Byrd-Hagel resolution still commands strong support in the Senate. Therefore, any treaty President Obama submits must meet this criteria or it will be easily defeated.

Proponents of securing an international treaty are slowly acknowledging that the gulf is widening between the United States and other industrialized nations that are willing to

do what developing countries such as China want them to do. The gulf has always been wide, but it is continuing to get wider. When we talk about China and about the fact that they are talking about restricting CO_2 emissions in the United States, some think that surely China will follow our lead. It is interesting that China is cranking out two coal-fired power-generating plants every week.

With certain failure at Copenhagen, it is safe to say cap and trade is dead. Look at the record: the Byrd-Hagel amendment in 1997, the defeat in the Senate of the McCain-Lieberman bill in 2003, and defeat of McCain-Lieberman in 2005, defeat of the Warner-Lieberman bill, and no bill on the Senate floor in 2009.

From my very first speech on the Senate floor as chairman of the Environment and Public Works Committee, on July 28, 2003, I outlined the staggering cost of global warming solutions such as Kyoto. In my speech, I said the most widely—I am quoting now from what I stated in 2003:

> The most widely cited and most definitive economic analysis of Kyoto came from Wharton Econometric Forecasting Associates.

According to the Wharton School, their economists, Kyoto would cost 2.4 million U.S. jobs, reduce GDP by 3.2 percent, and that would equate to somewhere between a $300 billion and $330 billion tax increase annually—an amount greater than the total expenditure on primary and secondary education.

In terms of a tax, when I looked at that tax—and this was back in 2003 and they talked about a $300 billion tax increase—I wanted to look and see how I could better understand that. I recall, prior to that, the largest tax increase in the last three decades was called the Clinton-Gore tax increase of 1993. That tax increase was a $32 billion tax increase. I thought, wait a minute, we are about to impose upon the American people a tax increase that is 10 times greater than the 1993 Clinton-Gore tax increase. This chart shows what that would be. These are the tax increases. This is the increase we are talking about, the $32 billion tax increase. This is what it would have been had we signed the Kyoto treaty or any of the accords since that time. So we are talking about huge amounts of money. I said that because of Kyoto, American consumers would face the higher food, medical, and housing costs—costs for food, an increase of 11 percent; medicine, an increase of 14 percent; housing, an increase of 7 percent; and at the same time, an average household of 4 would see its real income drop by $2,700 in 2010 and each year thereafter. Under Kyoto, energy and electricity prices would nearly double, and gasoline prices would go up an additional 65 cents a gallon.

Again, we are not talking about JIM INHOFE, a Senator, making these statements. This was actually out of the Wharton School of Economics and their forecast at that time. I went on to note that CBO found that ''cap and tax'' is a regressive tax, arguing that the Congressional Budget Office found that the price increases resulting from a carbon cap would be regressive; that is, they would place a relatively greater burden on lower income households than on higher income ones. As to the broader macroeconomic effects of carbon cap-and-trade schemes, CBO said:

> A cap and trade program for carbon emissions could impose significant costs on the economy in the form of welfare losses. Welfare losses are real costs to the economy in that they would not be recovered elsewhere in the form of higher income. Those losses would be borne by people in their roles as shareholders, consumers, and workers.

Some might respond that government can simply redistribute income in the form of welfare programs to mitigate the impacts on the poor, but CBO found otherwise. They said:

> The government could use the allowance value to partly redistribute the costs of a carbon cap-and-trade program, but it could not recover these costs entirely.

Further:

> Available research indicates that providing compensation could actually raise the cost to the economy of a carbon cap.

That was what we quoted from the CBO in 2003. Yet, as the saying goes, the more things change, the more they stay the same. CBO, EPA, the DOE, CRS, the National Black Chamber of Commerce, NAM—everyone now agrees that cap and trade would be extremely costly and destroy jobs. No matter how hard alarmists try to recast their cause—whether it is green jobs or clean energy jobs or clean energy revolution—and they are starting to reword it from ''global warming'' to ''climate change.'' The general public has realized global warming isn't taking place, and they cannot use that, so they changed that to climate change. Now they cannot use that anymore, and they can't use cap and trade, so they talk about a green jobs program.

Cap and trade is a loser for America. I have also pointed out the inconvenient fact that cap-and-trade solutions are all pain and no climate gain. In the first speech in 2001, I noted that even Al Gore's own scientist admitted Kyoto would do nothing to solve global warming. Let me refresh the memory of the American people. In 2003, Al Gore had hired Dr. Tom Wigley, a senior scientist at the National Center for Atmospheric Research. The challenge he posed to him was, if we, along with all other developed nations, were to sign on to the Kyoto Treaty and live by its emissions restrictions, how much would this reduce the temperature in 50 years?

The answer was it would be 0.07 of 1 degree Celsius by 2050. It would actually be 0.13 degrees Celsius by 2100. These things are not even measurable. We go through 50 years of the highest tax increase in the history of America. What do we get for it? Maybe you will get, according to his own scientist, Dr. Tom Wigley, 0.07 of 1 degree Celsius.

I also mentioned in the 2003 speech everyone's favorite alarmist, James Hansen. I said at that time:

> Similarly, Dr. James Hansen of NASA, considered the father of global warming theory, said the Kyoto Protocol ''will have little effect'' on global temperature in the 21st century. In a rather stunning follow-up, Hansen said it would take 30 Kyotos—let me repeat that—30 Kyotos to reduce warming to an acceptable level. If one Kyoto devastates the American economy, what would 30 do?

Those following the climate debate closely know James Hansen went on record this summer against the Waxman-Markey-Kerry-Boxer bill. It is not going to pass now. At that time, it looked as if it was going to pass. Even James Hansen, one of the strongest proponents, said:

> Cap and trade is the temple of doom. It would lock in disasters for our children and grandchildren. Why do people continue to worship a disastrous approach? Its fecklessness was proven by the Kyoto Protocol.

That is James Hansen on the other side of the issue.

Now we have top Obama officials making the same points. EPA Administrator Lisa Jackson was before our committee. Keep in mind, she is an Obama appointee. She is now Administrator of the EPA. She said in response to a question I had—I said: Is this chart correct? In other words, if we were to pass this bill and to restrict our emissions of CO_2, would it have any effect? She said: No, I agree with that chart. Of course, I am encouraged. She said:

> I believe the central parts of the [EPA] chart—

That is this chart—

> are that U.S. action alone will not impact world CO_2 levels.

I often said how I appreciate the honesty of Lisa Jackson. It is difficult for her to admit that if we passed a bill, it would not have any effect on reducing worldwide emissions of CO_2.

You could carry that argument a little bit further because if we were to ration CO_2 in our country, that would cause jobs to leave. We understand that. They would go to countries such as China, India, and Mexico, where they don't have any restrictions at all. So it would have the effect of increasing CO_2.

Over the past several years, we have seen a growing number of Democrats—yes, Democrats—agreeing with my position. Today, with a Democratic Congress and a Democratic President, some may be surprised by the number of Democrats who want nothing to do with cap and trade.

Politico—we are all familiar with that publication—reported on Monday that:

> Lawmakers from coal and manufacturing-heavy States aren't happy that more liberal Democrats are using the Copenhagen negotiations to ratchet up pressure to move the bill forward. ''I'm totally unconcerned about Copenhagen.''

This is a quote by Democratic Senator Jay Rockefeller from West Virginia.

He said:

I'm concerned about West Virginia.

I am glad to hear some of my Democratic colleagues making these statements.

They also reported—still quoting from Politico:

Virginia Democratic Sen. Jim Webb said on Monday he would not back the cap-and-trade legislation sponsored by Sens. John Kerry and Barbara Boxer, another blow to the troubled Senate climate change bill. ''In its present form I would not vote for it,'' he said. ''I have some real questions about the real complexities on cap and trade.'' Webb is the latest in a series of Democratic moderates to raise significant concerns with the climate bill, which has floundered since passing the House in late June.

That is quite some time ago.

Or consider Democratic Senator BEN NELSON from Nebraska. The Hill recently reported on a CNBC interview with Senator NELSON, writing:

''A cap-and-trade bill to address climate change cannot pass Congress this session,'' said Sen. Ben Nelson, Democrat from Nebraska. Nelson, a centrist Democrat whose vote is key to leaders wielding its 60-vote majority in the Senate, said he and his constituents had not been sold on the cap-and-trade system proposed in the House and Senate bills to address global warming. ''No,'' Nelson simply responded when asked if those cap-and-trade bills can pass through this Congress during an interview with CNBC. ''I haven't been able to sell that argument to my farmers, and I don't think they're going to buy it from anybody else,'' Nelson said. ''I think at the end of the day, the people who turn the switch on at home will be disadvantaged.'' The pessimistic assessment makes Nelson a thorn in the side of his party's leaders—

Who are trying to push this through from the Democratic Party.

Perhaps the biggest blow to any Senate climate bill came last week from 14 Senate Democrats, primarily from the Midwest, who in a letter challenged the allocation formula of Kerry-Boxer and Waxman-Markey. The letter was signed by Senators AL FRANKEN, AMY KLOBUCHAR, MARK UDALL, MICHAEL BENNET, ROBERT BYRD, CARL LEVIN, DEBBIE STABENOW, and SHERROD BROWN.

What about the prospects for 2010? As Lisa Lerer of Politico reported last week:

An aggressive White House push on jobs and deficit reduction in 2010 may be yet another sign that climate-change legislation will stay on the back burner next year. ''There is a growing chorus in the party that thinks we should be doing something more to spur job creation and not necessarily tackle cap and trade right now,'' said a moderate democratic Senate aide. White House officials told Politico on Friday that President Barack Obama plans to curb new domestic spending beyond jobs programs and focus on cutting the federal deficit next year. In the Senate, Majority Leader Harry Reid has hinted that Democrats plan to take up a job-creation bill, in the wake of the announcement of the 10.2 percent unemployment rate. In the House, some lawmakers are beginning to push a major highway bill for next year to focus on job creation. None of this is promising for the major climate change bill.

That was a quote that came out of Politico.

Also, Darren Samuelsohn with E&E News reported this week that:

Next November's midterm elections loom large, leaving the climate bill sponsors until about the end of March to notch the 60 votes necessary to pass their bill off the floor and into a conference with the House that would best be finished before the summer. ''Conventional wisdom is that you have until the spring to get controversial issues moving,'' said Sen. Ben Cardin, a lead co-author of the climate bill that the Environment and Public Works Committee passed earlier this month. ''If not, it's difficult to see getting through closer to the elections.''

What he is saying there, when you get closer to the elections, then you want to be more consistent with what Americans believe.

Mr. Samuelsohn reported that the Democrats fear a repeat of the disastrous 1992 Btu tax vote. He quotes Al Gore as saying, ''Yes, I think the Btu [post-traumatic stress disorder] is a factor in this debate.''

To refresh your memory, Madam President, the Btu, back in 1992, was a huge tax increase on energy. People realized they would have to pay for it. That passed the House, ironically, with 219 votes, the same narrow margin this cap-and-trade bill passed 15 years later.

Samuelsohn also writes that according to Democratic Senator JAY ROCKEFELLER of West Virginia, ''the talk on the street'' was that an election year cannot be good for passing the climate bill in the Senate, even though he did not agree with that opinion. ''There's some possibility of people saying that it's too controversial a bill in an election year,'' quoting Rockefeller, ''which is sort of the opposite of how a democracy ought to work.'' I do agree with him on that. ''You go ahead and take your chances on that and get reelected. But people's business should come first.''

By now the message should be clear: It is not just Republicans but Democrats who are blocking passage of cap and trade in the Senate. The sooner we are honest with the international community of the impossibility of the Senate moving forward with cap and trade, the sooner we can begin work on an all-of-the-above energy bill to develop domestic energy resources, create jobs, and provide consumers with affordable, reliable energy.

I don't like the idea that sometimes promoters of cap and trade say this is an energy bill. What you are doing is restricting energy. Right now, we are dependent on coal, oil, gas, and, hopefully in the future, nuclear. Those who are pushing for this green energy, which we all want someday—what do we do 10, 15, 20 years from now? Just 2 weeks ago, they came out with a study that said the United States of America is No. 1 in possession of recoverable natural resources. Yet 83 percent of these natural resources are off limits, primarily due to the moratorium set by Democrats saying: We don't want you to drill offshore or some of these other places. It seems inconceivable to me that we are the only nation in the world that does not develop its own resources.

Anyway, the tipping point from the most memorable tidbit from my 2-hour global warming speech in July of 2003 was my comments about the science behind global warming. Now 6 years later, as I head to the next U.N. global warming conference, I am pleased by the vast and growing number of scientists, politicians, and reporters all over the world who are publicly rejecting climate alarmism, those who want to scare people into some kind of action: Water is going to rise up, the world is coming to an end—all of that. They are rejecting these alarmists now.

When I made those comments on the Senate floor, few people were there to stand with me. Today, I have been vindicated, and I am proud to share the stage with all those who now dare to question Al Gore, Hollywood elites, and the United Nations.

Early in my 2003 speech, 6 years ago, I said:

Much of the debate over global warming is predicated on fear rather than science. Global warming alarmists see a future plagued by catastrophic flooding, war, terrorism, economic dislocations, droughts, crop failures, mosquito-borne diseases, and harsh weather—all caused by man-made greenhouse gas emissions.

For the next 2 hours, I presented arguments by a number of leading scientists who disputed that picture of the future. I argued that activists attempting to propagate fear would fail to convince the American people. I then concluded my remarks saying:

With all the hysteria, all the fear, all of the phony science, could it be that man-made global warming is the greatest hoax ever perpetrated on the American people? It sure sounds like it is.

My remarks were immediately ridiculed by alarmists in the mainstream media. Alarmists then and since have used every name in the book to discredit me. Nevertheless, I continued to make my case in speech after speech on the Senate floor, highlighting arguments by numerous scientists that contradicted the notion that the science behind global warming was ''settled.''

Every time you quote a scientist, they always come back and say: Oh, no, you can't talk about the science; the science is settled.

The first time the McCain-Lieberman bill came to the Senate floor was 2003. McCain-Lieberman was essentially a cap-and-trade bill similar to what we are looking at today. I remember well, Republicans were in the majority. I was chairman of the Senate Environment and Public Works Committee. I can remember we were given 5 days on the floor to debate this bill, 10 hours a day, roughly 50 hours. I remember going over this and debating this on this very floor of the Senate in 2005. It

was the McCain-Lieberman bill, and only two Senators came down during that week to give me support. Fast forward to 2008. The same bill came up, except this time it was called the Warner-Lieberman bill, another cap-and-trade bill, just like we are talking about today. At that time, it didn't take 5 days to defeat it; it took 2 days, and 23 Senators came down to join me in that effort. What do I credit for the reversal? You might be surprised by my answer. It is none other than the winner of a Nobel Peace Prize and an Oscar. It is Al Gore.

The media blitz of 2006, which included an avalanche of magazine covers, hour-long global warming documentaries, celebrity rock concerts around the world, and, of course, Al Gore's very own science fiction movie, caused an unprecedented response from scientists from around the world.

Later that year, I took to the Senate floor debunking much of Al Gore's movie and the media hype. I said then—and this is, again, 2006:

> In May, our Nation was exposed to perhaps one of the slickest science propaganda films of all time: former Vice President Al Gore's ''An Inconvenient Truth.'' In addition to having the backing of Paramount Pictures to market this film, Gore had the full backing of the media, and leading the cheerleading charge was none other than the Associated Press.

I noted a report that appeared on June 27, 2006, by Seth Borenstein of the Associated Press that boldly declared ''Scientists give two thumbs up to Gore's movie.'' I took issue with the Borenstein article and pointed out—and this is a quote from 3 years ago:

''The article quoted only 5''—listen, Madam President—''only 5 scientists praising Gore's science, despite AP's having contacted 100 scientists.''

They contacted 100 scientists and they could only find 5 scientists who praised it.

> The fact that over 80 percent of the scientists contacted by the AP had not even seen the movie or that many scientists have harshly criticized the science presented by Gore did not dissuade the news outlet one bit from its mission to promote Gore's brand of climate alarmism. I am almost at a loss [I am quoting from 3 years ago] as to how to begin to address the series of errors, misleading science and unfounded speculation that appear in the former Vice President's film. Here is what Richard Lindzen, a meteorologist from MIT, has written about ''An Inconvenient Truth.'' He said: ''A general characteristic of Mr. Gore's approach is to assiduously ignore the fact that the Earth and its climate are dynamic; they are always changing even without any external forcing. To treat all change as something to fear is bad enough; to do so in order to exploit that fear is much worse.''

That is Richard Lindzen, one of the top scientists at MIT. In that same 2006 speech I then proceeded to give a brief summary of the science that the former Vice President promoted in either an inaccurate or misleading way. Let me read a list of these.

He promoted the now debunked ''hockey stick'' temperature chart in an attempt to prove man's overwhelming impact on the climate. He attempted to minimize the significance of the medieval warm period and the little ice age.

Let's put them together. If you remember the famous hockey stick, that was the one that showed climate, increasing temperature, and then all of a sudden there is a hockey stick. That is when it started going up.

It ignored the fact that in the 14th century and again in the 16th century we had the medieval warm period and the little ice age. In the medieval warm period it was far warmer than it has been since that time.

In that same movie, insisting on a link between increasing hurricane activity and global warming that most scientists at this time do not believe—and it doesn't exist. The science has come out since that time and said very clearly that science is not there. Every year they say this coming year it is going to be greater hurricanes. It doesn't happen. For 5 consecutive years they predicted that and it hasn't happened.

He asserted that today's Arctic is experiencing unprecedented warmth, while ignoring that the temperatures in the 1930s were warmer than in that time. He claimed the Antarctic was warming and losing ice, but failed to note this is only true of a small region and that the vast bulk has been cooling and gaining ice during that period. He hyped unfounded fears that Greenland's ice is in danger of disappearing.

If you were to say that maybe there is some truth in the global warming issue, I had occasion, I say to my good friend who is presiding, a few years ago, not too many years ago—my background is aviation. I decided to replicate the flight of Wylie Post going around the world. One of my stops there, where Wylie Post stopped, was in Greenland. Their history books are full of the time things were flourishing in Greenland. The Vikings came in, they were growing things that hadn't been grown. Then when the cycle went through and it started getting colder, they died and disappeared. I think you can argue we are going to have these cycles. God is still up there. We have always had Him; we are going to continue to have Him.

Back to the film. He erroneously claimed the icecap on Mount Kilimanjaro is disappearing—and that is not supported—due to global warming, even while the region cools and researchers blame the ice loss on local land use practices.

He made assertions of massive future sea level rise far afield from any supposed scientific ''consensus'' and not supported in even the most alarmist literature. He incorrectly implied that a Peruvian glacier's retreat is due to global warming, ignoring the fact that the region has been cooling since the 1930s and other glaciers in South America are advancing. He blamed global warming for water loss in Africa's Lake Chad, despite NASA scientists concluding that local population and grazing factors are the more likely culprits. He inaccurately claimed polar bears are drowning in significant numbers due to melting ice when in fact they are thriving.

The population of the polar bear has quadrupled since 1960 and today, of the 13 polar bear populations in Canada, they are all increasing except for one and that is in the western Hudson Bay area where they have hunting regulations and issues they are working on now not related to weather.

He completely failed to inform the viewers that the 48 scientists who accused President Bush of distorting science were part of a political advocacy group set up to support Democratic Presidential candidate John Kerry in 2004.

You could make a whole speech on each of the assertions made in that science fiction movie called ''An Inconvenient Truth,'' and they have been disproven. At the end of the speech I challenged those in the media to reverse course and report on the objective science of climate change, to stop ignoring legitimate voices in the scientific community, question the so-called consensus, and to stop acting as a vehicle for unsustainable hype.

The reaction by the American public was so overwhelming that my Senate Web site crashed after that. Thousands of people came to my site to read and watch the speech. In fact, I was flooded with e-mails supporting the work.

I also noted in 2006, in that speech, many scientists were just starting to speak out against the so-called consensus on global warming. In April of that year, 60 prominent scientists who questioned the basis for climate alarmism sent a letter—these were Canadian scientists, 60 of them sent a letter to the Canadian Prime Minister and they wrote:

> If, back in the mid-1990s we knew what we know today about climate Kyoto would almost certainly not exist, because we would have concluded it was not necessary.
>
> I say that because Canada was one of the countries that did sign onto the Kyoto treaty. They are saying today, if we had known then what we know now, we wouldn't have done it.

I discovered how many prominent scientists were disputing the claims of global warming alarmism in 2007 and I released my first report detailing over 400 scientists who did not buy the consensus. If you want to go back to any of these, I have a Web site, inhofe.senate.gov. You can see who they are.

After that report, the list continued to grow and more scientists began publicly challenging global warming fears. In 2008, I updated the report with over 650 scientists and today that stands at well over 700 skeptical scientists. The chorus of skeptical scientific voices continues to grow louder every day as the consensus collapses.

I think this is important. A lot of the scientists were intimidated at that

time with the withdrawal of various grants and other things coming from both the Federal Government or some more liberal groups that are out there. The fact is they had the courage to come forward and say the consensus is not there even though everyone thought it was for so many years. This momentous shift has caused the mainstream media to take notice of the expanding number of scientists serving as ''consensus busters.'' A November 25, 2008 article in Politico noted that a ''growing accumulation'' of science is challenging warming fears, and that the ''science behind global warming may still be too shaky to warrant cap-and-trade legislation.'' That was a year ago.

In Canada's National Post, it noted on October 20 of 2008 that ''the number of climate change skeptics is growing rapidly.'' The New York Times environmental reporter Andrew Revkin noted on March 6, 2008, ''As we all know, climate science is not a numbers game. There are heaps of signed statements by folks with advanced degrees on all sides of the issue.''

In 2007 a Washington Post staff writer, Juliet Eilperin, conceded the obvious, writing that climate skeptics ''appear to be expanding rather than shrinking.''

We have seen this happening for the last 2 years. Yet it will be 2009 that will be remembered as the year of the skeptic. Until this year, any scientist, reporter, or politician who dared raise even the slightest suspicion about the science behind global warming was dismissed and repeatedly mocked. Who can forget Dr. Heidi Cullen of the Weather Channel. She was on every week. I don't think she is on anymore; I haven't seen her in quite some time. She was the one who said, in 2007, that the American Meteorological Society should revoke its seal of approval for any television weatherman who expresses skepticism that human activity is creating a climate catastrophe.

She said:

> If a meteorologist can't speak to the fundamental science of climate change, then maybe the AMS shouldn't give them the seal of approval.

This is what she wrote in December 21 in a blog on the Weather Channel:

> It's like allowing a meteorologist to go on air and say that hurricanes rotate clockwise and tsunamis are caused by the weather. It's not a political statement . . . it's just an incorrect statement.

Of course there was Robert Kennedy, Jr., also in 2007, who called anyone who didn't agree with his views on global warming ''traitors.'' He spoke before a liberal group called the Live Earth Concert in July of 2007. He stated, Robert Kennedy, Jr.:

> Get rid of these rotten politicians that we have in Washington, who are nothing more than corporate toadies for companies like Exxon and Southern Company. These villainous companies that consistently put their private financial interest ahead of the interests of all of humanity. This is treason and we need to start treating them as traitors.

Al Gore, of course, said anyone who dares question the science should be equated with those who question the Moon landing.

Aside from the distasteful and derogatory ridicule by such alarmists, a major statement by a manmade-to-global-warming believer severely undercut their claims. This year one of the United Nations IPCC—let me make sure people understand this. The IPCC, Intergovernmental—this is a panel put together in the United Nations of people to try to sell the idea that manmade gases—anthropogenic gases, CO_2, methane—cause global warming. One of the U.N. scientists told more than 1,500 scientists gathered at the conference in Geneva, Switzerland: ''People will say this is global warming disappearing. I am not one of the skeptics. However, we have to ask the nasty question ourselves, or other people will do it.''

Remember, this quote comes from Mojib Latif, who Andrew Revkin from the New York Times describes as ''a prize-winning climate and ocean scientist from the Liebniz Institute of Marine Sciences at the University of Kiel, in Germany.''

This remarkable admission of the need to ask nasty questions comes nearly 2 years after I first pointed out these very facts on the Senate floor in my October 26 of 2007 speech on the Senate floor. This is what I said at that time. I am quoting now. I always hesitate quoting myself but it is important that we were talking about this 2 years ago. I said:

> It's important to point out that the phase of global warming that started in 1979 has, itself, been halted since 1979. You can almost hear my critics skeptical of that assertion. Well, it turns out not to be an assertion but an irrefutable fact, according to the temperature data United Nations relies on. Paleoclimate scientist Dr. Bob Carter, who has testified before the United States Senate Committee on Environment and Public Works, noted on June 18 of this year: ''The accepted global average temperature statistics used by the Intergovernmental Panel on Climate Change—that's the United Nations—showed that no ground-based warming has occurred since 1998. Oddly, this 8-year-long temperature stability has occurred despite an increase over the period of time of 15 parts per million or 4 percent in the atmospheric CO_2. Second, lower atmosphere satellite-based temperature measurements, if corrected for non-greenhouse influences such as El Nino events and large volcanic eruptions, show little if any global warming since 1979, a period over which atmospheric CO_2 has increased by 55 parts per million, or 17 percent.

To try to say it is tied to CO_2 is interesting because immediately following World War II, the largest increase in the emissions of CO_2 took place starting about 1946. Yet that didn't precipitate a warming period, it precipitated a cooling period during that time.

The very people who had long called the science settled and those who went so far to say the science behind global warming was unequivocal now admitted that nasty questions must be raised. Those questions are now being raised by the media. On October 8, the BBC, the British Broadcasting Company, stunned the journalism community with an article by their climate correspondent Paul Hudson. The headline asked, ''What happened to global warming?'' Hudson wrote in that article, October 8:

> This headline may come as a bit of a surprise, so too might the fact that the warmest year recorded globally was not 2008 or 2007, but [was] in 1998. But it is true. For the last 11 years we have not observed any increase in global temperatures. And our climate models did not forecast it, even though manmade carbon dioxide, the gas thought to be responsible for warming our planet, has continued to rise.

(Mr. CARDIN assumed the chair.)

Mr. INHOFE. The article continues to note the lack of global warming recently and mentions the fact that many scientists are predicting a coming global cooling.

Following the BBC, other British news outlets have run similar headlines. The UK Sunday Times wrote ''Why everything you think you know about global warming is wrong.'' This is coming from Great Britain. The Daily Mail, another major publication in Great Britain, had a headline: ''Whatever happened to global warming? How freezing temperatures are starting to shatter climate change theory.'' Australia's Herald Sun has picked up on the trend as well. Columnist Andrew Bolt, noting the turning tide of media around the world, wrote:

> This is like the moment in the Emperor's New Clothes, in which the boy calls out ''but he's naked!''

Let's be clear. Some of the media were already beginning to question the consensus even before that announcement.

Television personalities were coming around as well. In April, Charles Osgood, host of ''CBS News Sunday Morning'' and a noted environmentalist, questioned global warming projections. He asked:

> Right now, global warming is a given to so many, it raises the question: Could another minimum activity period on the Sun counteract, in any way, the effects of global warming?

Osgood later scolded himself for even questioning global warming before stating:

> I'm sure you'll be hearing more about this solar dimming business, now that the story is out. Remember, you heard it here first . . .

Lou Dobbs, formerly with CNN, has also joined the chorus questioning the alarmists, consensus. In January, Dobbs compared the belief in manmade global warming to a religion.

He stated:

> They bring this thing to a personal belief system. It's almost a religion, without any question . . .

Dobbs also criticized what he called ''crowding out of facts and objective assessment of those facts . . . there's such selective choices of data as one

discusses and tries to understand the reality of the issues that make up global warming.''

In September, another dramatic announcement came from Houston Chronicle science reporter Eric Berger. He stated:

Earth seems to have at least temporarily stopped warming. If we can't have confidence in short-term prognosis for climate change, how can we have confidence in long-term?

The bright light is also fading on the U.N. IPCC. In August, the New York Times ran the headline ''Nobel Halo Fades Fast for Climate Change Panel.'' The article notes:

As the panel gears up for its next climate review, many specialists in climate science and policy, both inside and out of the network, are warning that it could quickly lose relevance unless it adjusts its methods and focus.

Weeks later, on September 23, the New York Times again acknowledged a shift in public moods and scientific evidence when it stated that the U.N. faced an ''intricate challenge: building momentum for an international climate treaty at a time when global temperatures have been relatively stable for a decade and may even drop in the next few years.''

Given the media's track record, this is hardly surprising. As I noted in my 2006 speech, the media runs hot and cold in their coverage of climate change. Quoting here, I said at the time:

Since 1895, the media has alternated between global cooling and warming scares during four separate and sometimes overlapping time periods. From 1895 until the 1930s, the media peddled the coming ice age.

Everyone is going to die. We are going to freeze to death.

From the late 1920's until the 1960's they warned of global warming. From the 1950's until the 1970's they warned again of a coming ice age. This makes modern global warming the fourth estate's fourth attempt to promote opposing climate change fears during the last 100 years. Recently, advocates of alarmism have grown increasingly desperate to try to convince the public that global warming is the greatest moral issue of a generation. Last year, the vice president of London's Royal Society sent a chilling letter to the media encouraging them to stifle the voices of scientists skeptical of climate alarmism. During the past year, the American people have been served up an unprecedented parade of environmental alarmism by the media and entertainment industry, which link every possible weather event to global warming. The year 2006 saw many major organs of the media dismiss any pretense of balance and objectivity on climate change coverage and instead crossed squarely into global warming advocacy.

Maybe one reason the media is starting to come around is that the public is shifting as well. It is easy to sell magazines, books, and movie tickets when you have everyone eating out of your hand believing that a climate catastrophe is right around the corner. Once the audience isn't buying that story anymore, it might be time to start acknowledging the other side.

If we look at Time magazine, I remember back in 1975, Time magazine—and Newsweek of the same year—said another ice age is coming. There it is. This is 1974. This was in Time magazine. Another ice age is coming. Then you fast forward to about 3 years ago. That same Time magazine had a picture of the last polar bear in the world standing on the last ice cube and saying: Now it is global warming.

This is why the media is coming around. Polls are showing an unprecedented shift in public opinion on the science of climate change as well as cap-and-trade proposals in Congress. Only a few weeks ago, in October, Politico reported:

As the nation struggles to climb out of a recession, 45 percent rated the economy as the most important issue in deciding their vote if the congressional election were held today, followed by 21 percent who said government spending, 20 percent who chose health care reform and 9 percent who said the wars in Iraq and Afghanistan. Just 4 percent of the people said climate change was the top issue.

I can remember when that was 60 percent.

The people have caught on. You are going to see the media, if they want to sell their stuff, come back and change their position. We are seeing that now.

Economic worries also led a majority of Americans to place jump-starting the economy ahead of concerns about the environment. Even as the Obama administration is pushing for climate protection legislation, 62 percent of those polled agreed that ''economic growth should be given priority, even if the environment suffers to some extent.'' The remaining 38 percent believe that ''protection of the environment should be given priority, even at the risk of curbing economic growth.''

Further, earlier this year Gallup released a poll that found that 41 percent of the people believe global warming claims are exaggerated. What about the effect of Al Gore's climate scare campaign? The Gallup poll editor Frank Newport says he sees no evidence that Gore is winning. Newport said:

It's just not caught on, they have failed. Any measure that we look at shows Al Gore's losing at the moment. The public is just not that concerned. [. . .] Ask people to name the biggest concerns, and just 1 percent to 2 percent cite the environment. The environment doesn't show up at all, it's Al Gore's greatest frustration. We seem less concerned than more about global warming over the years . . . Despite the movies and publicity and all that, we're just not seeing it take off with the American public. And that was occurring even before the latest economic recession.

Again, further quoting Frank Newport:

As Al Gore I think would say, the greatest challenge facing humanity . . . has failed to show up in our data.

Polls have also shown that when looking at environmental issues only, climate change continually ranks dead last among concerns. This wasn't true a few years ago. This is what is taking place now. This is after all the media hype, all the hysteria.

The Gallup poll in March found global warming ranked last in the United States among environmental issues. This is just environmental issues. Air and water pollution, toxic waste, animal and plant extinctions, the loss of tropical rain forests all ranked as a greater concern than global warming.

As Gallup stated:

Since more Americans express little to no worry about global warming than say this about extinction, global warming is clearly the environmental issue of least concern to them.

These are the environmentalists.

In fact, global warming is the only issue for which more Americans say they have little to no concern than say they have a great deal of concern.

The public is also unwilling to accept legislation on climate change that would cost them money. Rasmussen found that 56 percent of Americans said they are not willing to pay any additional taxes or utility costs to fight global warming.

The clear rejection of fear and hysteria is leading many on Capitol Hill to change their tune on climate legislation. Turning away from using scare tactics, the left is now trying to sell cap and trade as clean energy legislation. Don't say climate change, don't say global warming, don't say cap and trade anymore. Say clean energy economy—that is something that sells. So if you keep renaming the same thing, maybe it will sell.

As the New York and the L.A. Times have recently reported, the White House, concerned by the lack of support for their cap-and-trade initiatives, is using poll-tested talking points to help push one of the President's biggest priorities. The New York Times caught on to these new talking points earlier this year, reporting:

The problem with global warming, some environmentalists believe, is ''global warming.'' The term turns people off, fostering images of shaggy-haired liberals, economic sacrifice and complex scientific disputes, according to extensive polling and focus group sessions conducted by ecoAmerica, a nonprofit environmental marketing and messaging firms in Washington.

The L.A. Times also reported:

Scratch ''cap and trade'' and ''global warming,'' Democratic pollsters tell Obama. They're ineffective . . . Control the language, politicians know, and you stand a better chance of controlling the debate. So the Obama administration, in its push to enact sweeping energy and healthcare policies, has begun refining the phrases it uses in an effort to shape public opinion. Words that have been vetted in focus groups and polls are seeping into the White House lexicon, while others considered too scary or confounding are falling away.

Despite his longtime work on cap and trade, Senator JOHN KERRY actually went so far as to say he didn't even know what cap and trade is, saying in September:

I don't know what ''cap and trade'' means. I don't think the average American does. This is not a cap-and-trade bill, it's a pollution reduction bill.

While Senator KERRY says he doesn't know what cap and trade is, the American public knows what it is: a massive new energy tax, plain and simple.

It has been kind of interesting to watch this change, watch the phraseology change as time has gone by. But we know this: Nothing has really changed since Kyoto. It is the same thing, cap and trade, the largest tax increase in the history of America.

Let me conclude by saying just how encouraged I am to say that the tide has turned—not is turning, it has turned. The skeptics' challenge has been heard, and I am glad to see that more and more journalists are no longer reporting the hyped fears that many want the American public to believe. Media outlets around the world are more skeptical today of manmade climate fears, and they are also more aware of the enormous cost of climate legislation. More importantly, polls are showing that the people are no longer buying the hype either.

The bottom line is that efforts to pass the largest tax increase in America's history have clearly failed, handing the American people a tremendous victory.

It has been a long time, some 8 years.

I see the Senator from Vermont is very anxious to counter these things I have been saying. That is perfectly all right. That is one thing about this body—you have the opportunity to do that. There is no one I consider a better friend than the person presiding right now, from Maryland. He and I were elected together many years ago to the House of Representatives. We disagree on this issue.

What I am reporting here is science, and the people have come to an agreement. After 8 years, the truth finally does come out.

Winston Churchill said: Truth is incontrovertible. Ignorance may prevent it. Panic may resent it. Malice may destroy it. But there it is.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

HEALTH CARE REFORM

Mr. SANDERS. Mr. President, I do disagree with my friend from Oklahoma very much, but that disagreement will have to wait for another day because today I want to deal with another crisis, and that is the situation regarding health care.

I come to the floor to urge my fellow Senators to go forward in passing the strongest possible piece of health care reform legislation—legislation which is comprehensive, covering all basic health care needs; legislation that is universal, covering every man, woman, and child in our country; and legislation, importantly, that is cost effective both for individuals and for our Nation.

I think all of us understand the United States today is in the midst of a major health care crisis. Mr. President, 46 million Americans have no health insurance and, importantly, even more are underinsured with large copayments and deductibles. We have heard some of our rightwing friends talk about death panels. Let me tell you about the reality of a real death panel, not a phony death panel, and that is, this year in the United States, according to Harvard University, some 45,000 Americans will die because they lack health insurance and they do not get to a doctor when they should.

Mr. President, 45,000 will die this year. And if we do not take action, 45,000 or more will die next year. This is the United States of America. To see tens of thousands of our fellow country people dying because they do not have access to a doctor is an abomination, it is not acceptable, and that needs to change.

Among many other reforms we need to bring about as we go forward with health care reform is a revolution in terms of primary health care. Today, 60 million Americans, including many with health insurance, do not have access to a doctor. The result of that is, when they get sick, they go to the emergency room, at great cost, or they delay getting health care, and they end up in the hospital being treated for a far more serious illness than they would have had if they were treated initially. Clearly, this is an absurdity. It costs us lives. It costs us money. We have to change that.

I am very happy to say that in that regard I have introduced legislation that has 25 cosponsors in the Senate and which has been incorporated into the Health, Education, Labor, and Pensions bill, which would quadruple—quadruple—the number of federally qualified community health centers in our country over a 6-year period, which would mean there would be a community health center providing excellent quality health care, dental care, mental health counseling, low-cost prescription drugs in every underserved area in the country. We go from about 1,300 centers to 5,200 centers.

Also in this bill, we would increase by 10 times the amount of money for the National Health Service Corps so we can provide debt forgiveness for those people in medical school who want to practice primary health care, which in Vermont and around this country is a desperate, desperate need. We absolutely need to increase the number of primary health care physicians we have.

When we talk about health care reform, we also have to include dental care. Dental care is often sometimes pushed aside. But I can tell you, in many regions of this country, people are finding it virtually impossible to gain access to a dentist and, oftentimes, they simply cannot afford the dental care they need. So when we talk about health care, we have to include dental care in that.

Furthermore, when we are talking about health care reform, it is absolutely imperative we begin to address the fact that in the United States of America we spend far more on prescription drugs than do people of any other country. This is not just a financial issue for the individual; this is a health care issue. I have talked to physicians who tell me—and I think this is common not just in Vermont but all over the country—that some 25 to 35 percent of their patients do not fill the prescription the doctor writes because they cannot afford to do that. So what sense is it when somebody goes to the doctor that the doctor writes out a prescription but that individual cannot afford to fill that prescription? We need to deal with the high cost of prescription drugs, and we can do that in several ways.

No. 1, when I was in the House, I was the first Member of Congress to take American citizens over the Canadian border to purchase prescription drugs there that cost a fraction of what they cost in the United States. So we need to pass what is called reimportation—the right of Americans and the right of people who manage prescription drugs, who are in that business, to be able to purchase safe, FDA-approved medicine from abroad at a fraction of the price the drug companies are selling those products to them in this country. That will lower the cost of prescription drugs for all Americans.

Second of all, we, obviously, have to negotiate prescription drug prices under Medicare Part D. When we do that—and we lower the cost that Medicare is paying—we can end the doughnut hole which is now causing so many problems for senior citizens today who go above the first part, where Medicare is paying about $2,500, and then they have to pay 100 percent of the cost, which is hurting a whole lot of seniors.

Thirdly, we must deal with the biologics issue. My colleague Senator SHERROD BROWN of Ohio has been strong on this issue, so that we stop drug companies from having exclusivity for 12 years, preventing generic companies from getting into the market and lowering the cost of biologics. That is a very important issue.

Any serious health care reform legislation must include strong cost containment. Insurers have increased premiums 87 percent over the past 6 years, while premiums have doubled over the last 9 years—increasing four times faster than wages. If present trends continue, health insurance premiums will double over the next 8 years, which will be a disaster for millions of Americans and, in fact, for our entire economy.

Today, the United States spends far more per capita for health care than any other country on Earth. That is a very important point for us to understand. We are now spending over $7,000 per person, and yet despite spending almost twice as much as any other industrialized country, our outcome in terms of infant mortality, in terms of life expectancy, in terms of immunization and preventable deaths, is often

behind other countries. So we are spending huge amounts of money; we are not getting value for what we are spending.

The cost of health care in this country is now 16 percent of our GDP, and it continues to soar at a rate that is basically unsustainable. So this is not, again, just an issue for individuals. This is an issue for our economy and our Nation.

If you look at a company such as General Motors—General Motors which went bankrupt—they were spending more money on health care per automobile than they were on steel. Small business owners in Vermont and across this country are finding it harder and harder not only to provide decent health care coverage for their workers, but in many instances they cannot even provide health care to themselves. What ends up happening is, instead of investing their profits into expanding their businesses and creating more jobs, all of that money is going into the soaring health care costs.

But when we talk about the personal impact of our disastrous health care system on individuals, there is no better example than looking at bankruptcy. In this country today, we have approximately 1 million Americans who are going bankrupt because of medically related costs. It is not hard to understand why: You lose your job in the midst of a severe recession. Somebody in your family becomes very ill. Well, how do you come up with the money if you do not have any health insurance, or even if you do have an inadequate health insurance program? The answer is, you go bankrupt. So, incredible as it may sound, close to a million people in this country this year are going bankrupt because of medically related illnesses.

I have talked a little bit about some of the problems that are out there—and there are many more. What is the answer? I do not think anyone has a perfect answer. But I do think the United States should be looking at other countries around the world. Why do we end up spending so much and get relatively poor value for what we are spending? When we do that, when we look at countries throughout Europe, Scandinavia, Canada, and so forth, I think it leads one to the conclusion that if we are serious about providing quality, affordable care to all Americans, in a cost-effective way, then we must move toward what many of us call a Medicare-for-all single-payer program.

I understand, as I think many people do, that because of the power of the insurance companies and the drug companies and the medical equipment suppliers, because of their campaign contributions, because of their lobbying, the truth is, a single-payer program has never been on the table from day one since this whole discussion began. I think that is very unfortunate. It is doubly unfortunate because we have many thousands of physicians in this country, including the 16,000 members of Physicians for a National Health Program, and other health care providers, the largest nurses union in this country, in support of a single-payer system. Millions of Americans want us to move that way. But because of big money interests, that discussion does not even begin to get to the floor.

Well, I intend during the course of the debate to offer an amendment on a national single-payer system. We will see how many votes we get. But what I am also trying to do is give States flexibility so that, if they so choose, they can move forward with a single-payer approach. My guess is that if one State does it—whether it is Vermont, California, Pennsylvania—whichever that State may be, if it works well, if everybody in that State has good quality health care, in a cost-effective way, it will spread all over the country. I intend to do my best to see that language is in the bill, which will allow States to do just that.

A single-payer national health insurance program is a system in which a single public or quasi-public agency organizes health financing, but delivery of care remains largely private. This is not a government health care program. It is not what they do in the United Kingdom. It is public insurance privately delivered.

The reason we spend more—and this is an issue that has gotten amazingly little discussion—why do we end up spending almost twice as much as any other country? Well, I think that is a good question to ask. I do not hear a whole lot of answers. The reason is we have a patchwork system of for-profit payers. We have private insurance. What is the function of a private insurance company?

Everybody in America understands the function of a private insurance company is not to provide health care, it is to make money. What we end up with are 1,300 private insurance companies, with thousands of separate systems, each geared to a different group, each geared to make as much money as it possibly can. The result is we as a nation are spending about 30 cents of every $1 not on doctors and medicine and nurses; we are spending it on administration and bureaucracy, huge profits, advertising, billing, sales, marketing—you name it; we spend it—rather than spending it actually on trying to keep people healthy or make them well.

Single-payer financing is the most significant way I know to end the waste and bureaucracy of the current system. What the studies suggest is if we move toward a single-payer system, we would save over $350 billion every single year, getting rid of all of that bureaucracy, that waste—the paper shuffling that has nothing to do with making people well.

Under a single-payer system, all Americans would be covered for all medically necessary services, including doctor, hospital, long-term care, mental health, dental, vision, prescription drug, and medical supply costs. In other words, unlike anything else I have been hearing, it would be comprehensive: all of your basic health care needs. Patients, of course, would remain free to choose the doctor and hospital they would want, and doctors would retain autonomy over patient care, which often is not happening today as they have to argue with insurance companies as to what kind of therapies they can prescribe. Physicians would be paid fee-for-service according to a negotiated formulary or receive salary from a hospital or nonprofit HMO group practice. Hospitals would receive a global budget for operating expenses. Health facilities and expensive equipment purchases would be managed by regional health planning boards. A single-payer system would be financed by eliminating private insurers and recapturing their administrative waste. Modest new taxes would replace premiums and out-of-pocket payments currently paid by individuals and businesses. Costs will be controlled through negotiated fees, global budgeting, and bulk purchasing.

Well, that is where, in my view, we should be going. That is not where we will go. As I said earlier, that approach is anathema to the insurance companies, the drug companies, the medical equipment suppliers, all of the big money interests, and they have, unfortunately, enormous power over what goes on in Congress, so we are not going to go there.

Let me say a few words about where we are going. Obviously, we are in the middle of that right now. Last week the House came forward with their bill. Majority Leader REID is now trying to meld the two bills in the Senate from the HELP Committee and from the Finance Committee, and we expect that new legislation will be out very shortly. I have not seen it; I don't know if anybody has. Let me express a few words of concern about what I have seen in the discussion and the legislation that has been passed in the House.

First of all, the average American is saying—I get this in Vermont every day, and I am sure the Presiding Officer gets it in Maryland every day—all right, hey, good, health care reform. That is great. What is it going to cost me? What do I get? How much am I going to have to pay, and what do I get for what I pay? That is the question on the minds of millions of Americans.

The answer is, at this point—and, again, we have not seen Senator REID's bill which will be out almost momentarily, but let me just tell my colleagues about what was in the Senate Finance Committee bill so everybody has a sense of what we are talking about.

Under the Finance Committee bill—and that is going to change; whether it goes up or down, I don't know, but it will change—a family of four in Vermont earning $44,000 a year, which is not an unusual sum in my State, would pay about $3,087 in annual premiums, while the Federal Government

would pick up the rest of the total of $14,700 in premiums. In a year with high medical expenses—in other words, somebody gets ill, somebody has an accident and ends up in the hospital for 3 weeks—that family would pay up to $5,800 out of pocket. So you have premiums of $3,087, out-of-pocket costs of $5,800. That is a total potential payment in premiums and out-of-pocket expenses of $8,887 for health care under the Finance Committee's bill. This would be about 31 percent of the net income, aftertax income, of a family in Vermont, and I don't know that Vermont is any different than Maryland or any other State earning $44,000—31 percent.

Somebody could tell us that is health care reform, but I really don't see it. Asking people in this country who, admittedly, have had a tough year with illness to pay 31 percent, and then say, hey, we passed health care reform, that, frankly, is not good enough for me, and I am going to do everything I can to make sure the final product out of the Senate is a lot better than that for ordinary middle-class families.

The second issue that concerns me as we proceed down the line in terms of this health care debate is the issue of public option. I think there is a lot of confusion about what a public option is, but let me say this: My belief is the vast majority of the American people want to have a choice as to whether they stay in a private insurance company or whether they go into a Medicare-type public option which is funded by premiums. It is not Medicare; it is funded by premiums. But there are large numbers of Americans, for right reasons—I agree with them—who do not trust private insurance companies because they understand that a private insurance company wants to make as much money as possible off of their premiums. They would like the choice of looking at and maybe going into a public option. My view is we should make that choice available to as many people as possible.

I have the sad thought that many folks out there are hearing us talking about a public option saying: Hey, that is great. I am going to have a choice. I don't like my employer-based health care. Now I am going to have a public option. That is great.

Let me break the bad news to you if that is what you believe. That is not the case as it now stands. Relatively few people—people who are currently uninsured; small, very small, businesses; people who today get their insurance companies privately for themselves or their families; the self-employed, those are the people for whom a public option is currently available based on what has been passed. I think that is wrong. I think we need to expand it. Frankly, I think virtually every American should have that choice.

There is the great debate: Should Members of Congress have the public option as our rightwing friends talk about? Yes, we should. And if the public option is better than Blue Cross Blue Shield or private insurance companies, many of us would take it. But as does everybody else, we deserve the option. That is what it is, an option. If you like private insurance, it is working well for you, stay with it. If you like the public option because it is better for you, you go with it. Let's give as many Americans the choice, not 2 or 3 percent but the vast majority of the people in our country who are now in private insurance.

That takes us to another issue because, in the midst of a bill which is very complicated—and I am not a great fan of complicated. I think when you have a bill that is 1,900 pages, that just begs for the big money interests and the special interests to get their little things in it, and I worry about that a whole lot. This is much too complicated, but there it is. I think the House bill is 1,900 pages. But when we talk about opening the public option for more Americans, it means to say you have to open the exchange, the gateway for more Americans. The gateway means if you choose either your private insurance company or a public option, you are going to get subsidized by the Federal Government. Right now, as this bill stands, there are many people stuck in bad private insurance plans.

Maybe you work for Wal-Mart, maybe you work for Dunkin' Donuts, maybe you work for McDonald's, and they are offering you some kind of insurance program which either costs a fortune or doesn't cover very much. Well, under the current legislation, up to now at least, you are stuck with that. That is what you have. That is not health care reform, to be stuck in a bad Wal-Mart plan. We have to do better than that. So we want to expand that gateway for more people.

The other question is—I don't know what Majority Leader REID's bill is going to end up costing, but the estimates are that we are looking at about, over a 10-year period, $800 billion to $1 trillion. Well, the simple question is, Where is the money coming from? Where is the money coming from?

There are some people who have said: Well, maybe we want to tax good, strong insurance programs out there. That is the way to go. Well, not for this Senator, it is not, and I will do everything I can to oppose any movement in that direction. Workers have fought, in many cases, long and hard—given up wage increases—in order to get decent health insurance programs for their families, and now we are going to tax them? Not me. I am not going to do that. This country has the most unequal distribution of income and wealth. The rich are getting much richer while the middle class is shrinking.

I think it is fair as we move forward in health care reform to ask the wealthiest people in this country to start paying their fair share of taxes.

There is another issue which is kind of a local issue, I admit, and that is on the impact on early-acting States in terms of Medicaid reimbursements. It was just in the newspapers today—and I am very proud of this—that for whatever it is worth, according to some group, the State of Vermont is now the healthiest State in the country. What that tells me and what I know for a fact is that Vermont, which is not a wealthy State, has said we are going to take care of our kids. We are going to make sure that as many kids as possible are involved in what we call our SCHIP program. It is called Dr. Dinosaur. It is a very good, popular program. We are going to have other public health insurance programs. We are going to do the best we can.

I am proud that today Vermont was acknowledged to be perhaps the healthiest State in the country. I am not going to sit by idly while Vermont and Massachusetts—another State that has taken major steps forward—are penalized because we have made reimbursement rates. Because we have done the right thing is not a reason to penalize us. I am all for helping out States that have not done the right thing, but we should not and will not penalize States that have done the right thing.

So let me conclude by saying this: This country faces a major crisis in health care. Because of the power of big money, we are not going to do the right thing and pass a Medicare-for-all, single-payer approach, which is the only way to provide quality, affordable, cost-effective health care for all Americans. What we are now looking at is a 1,900-page bill which is enormously complicated which clearly has been heavily influenced by the drug companies, by the insurance companies, and by every other special interest that is making billions off of health care.

I think it is very important as we proceed down this path to take a very hard look at the end of the day as to what this bill will mean for middle-class families, for working-class families, and for the financial stability of our country as a whole. I am going to do everything I can to make sure this bill is something worth voting for—worth voting for.

So with that, I thank the Chair for the indulgence, and I yield the floor.

Mr. COBURN. Mr. President, I seek recognition to speak on the nomination of Judge Hamilton.

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

NOMINATION OF JUDGE DAVID HAMILTON

Mr. COBURN. I come to the floor—I am a member of the Judiciary Committee—to raise significant concerns about this nominee. There is no question he is a fine man. There is no question he has a lot of experience, a great

education. But there is also no question in my mind that he is a highly activist Federal judge who will be promoted to a level of making final determinations on most of the decisions that come before him and his circuit.

He does have a distinguished history, but his history is complicated by, in my opinion, a view that it doesn't matter what the Congress says; that it doesn't actually matter what precedent says; it doesn't matter what stare decisis, the precedent of the Supreme Court, says; he believes he can rule against that.

After attending his hearings, I would note there were over 10,000 pages of decisions and his vote on the committee was well before we could actually consider all 10,000 pages of decisions. He was voted out of our committee.

I want to raise in detail some of my problems and then give some case histories to back them up. For example, I asked Judge Hamilton whether he thought it was appropriate for a judge to consider foreign law when interpreting the Constitution. Rather than recognize the court should not be looking to foreign law when interpreting our Constitution, Judge Hamilton used an analogy of judges considering law review articles of American lawyers with consulting decisions of foreign courts. He stated:

> [C]ourts . . . will look to guidance from wise commentators from many places—professors from law schools, experts in a particular field who have written about it. And in recent years, the Supreme Court has started to look at some courts from other countries where members of the Court may believe that there is some wisdom to be gained. As long as it is confined to something similar to citing law professors' articles, I do not have a problem with that.

I have serious concerns with that. Let me put out what those are. What he fails to recognize when he equates the two is that professors who are writing on American law in American journals are writing about the interpretation of our Constitution based on American statutes and American values. They begin their analysis with an understanding of the creation of our Constitution by our Founders and our system of limited government.

When American courts look to foreign law, they are considering opinions and wisdom of people who do not share our values and who are unfamiliar with American statutes and constitutional interpretations. By conflating the two types of references, Judge Hamilton tries to minimize the damage courts can inflict on our Constitution when they look to foreign courts for guidance.

I was even more disturbed by Judge Hamilton's answers to my written questions following his hearing. In his responses, Judge Hamilton embraced President Obama's empathy standard, writing that empathy was ''important in fulfilling [the judicial] oath.''

As a matter of fact, Supreme Court Justice Sotomayor cited just the opposite. What she said was that she looks at facts, not empathy. She rejected the empathy standard.

He also explained why he believed he fit this standard and emphasized his effects-based approach, stating:

> Because I will continue to do my best to follow the law, to treat all parties who come before me with respect and dignity, and to understand how legal rules or decisions will affect behavior and incentives for different people and different institutions.

That is nowhere in the oath of a judge. Nowhere is that. Considering the consequences of his ruling and how that might affect people should not be part of the decisionmaking, in making the ruling.

These statements following his hearing only confirmed what I feared prior to his hearing: that Judge Hamilton embraces a liberal activist philosophy and has implemented that philosophy in his legal decisions.

As evidence of his activist tendencies on the bench, I will turn now to some of his opinions as a district court judge that illustrate his propensity to allow his personal biases to influence his decision. In the case of Women's Choice v. Newman, Judge Hamilton succeeded in blocking the enforcement of a valid Indiana law for informed consent for 7 years—7 years. The law required doctors to give certain medical information to women in person before an abortion could be performed and required a waiting period before an abortion was performed.

There is already precedent, clearly by Casey, in the Supreme Court. When overturning Judge Hamilton's ruling, the Seventh Circuit harshly criticized his decision by stating:

> [F]or seven years, Indiana has been prevented from enforcing a statute materially identical to a law held valid by the Supreme Court in Casey, by this court in Karlin, and by the Fifth Circuit in Barnes. No court anywhere in the country (other than one district judge in Indiana) has held any similar law invalid in the years since Casey . . . Indiana (like Pennsylvania and Wisconsin) is entitled to put its law into effect and have that law judged by its own consequences.

That is a harsh review.

Further, Judge Coffee, in his concurring opinion in this case, was even more critical of Judge Hamilton's opinion, and he specifically criticized Hamilton's reliance on one study which was conducted by the Planned Parenthood-affiliated Guttmacher Institute.

Here is what he said about Judge Hamilton's decision:

> [His decision] invades the legitimate province of the legislative and executive branches.

That is the problem with judicial activists. They see no limits. They take a personal bias, and they use that bias rather than interpreting the statutes and looking at precedent. They make their own decision. For 7 years Indiana was without a duly-passed statute passed by the elected representatives of that State, in error, because Judge Hamilton believed something different.

He didn't rely on precedent. He relied on his personal bias, a strong personal bias that said that wasn't right, when all the other courts had recognized the precedent by Casey.

Here is what Judge Coffee also said:

> As a result, literally thousands of Indiana women have undergone abortions since 1995 without having had the benefit of receiving the necessary information to ensure that their choice is premised upon the wealth of information available to make a well-informed and educated life-or-death decision. I remain convinced that [Judge Hamilton] abused his discretion when depriving the sovereign State of Indiana of its lawful right to enforce the statute before us. I can only hope that the number of women in Indiana who may have been harmed by the judge's decision is but few in number.

As the Seventh Circuit properly notes, as a result of his activism, Judge Hamilton effectively prevented the people of Indiana from enforcing a duly enacted, reasonable restriction on abortion in violation of existing law and Supreme Court precedent.

In two other cases, Judge Hamilton succeeded in excluding traditional religious expression from the public square. In the case of Hinrichs v. Bosma, Judge Hamilton prohibited prayers in the Indiana State Legislature that mentioned Jesus Christ while allowing those that mentioned Allah. The Seventh Circuit reversed that decision.

In another case, Grossbaum v. Indianapolis-Marion County Building Authority, Judge Hamilton's decision prohibited a rabbi from placing a menorah in a public building. A unanimous Seventh Circuit court panel reversed Judge Hamilton's ruling and noted that he had ignored two Supreme Court cases that were directly on point.

Why would a learned judge ignore precedent? There is only one reason for ignoring precedent, and that is a judicial activist bias that he does not have to follow the law; that he is not limited by the Constitution, but he is limited to his personal feelings and his personal beliefs. That is the exact opposite of what we want in terms of neutrality of those directing court proceedings.

Judge Hamilton's record also suggests he is empathetic toward criminal defendants rather than the victims of crimes. According to the Almanac of the Federal Judiciary, local practitioners have said Judge Hamilton ''is the most lenient of any judge in the district. . . .''

''He is one of the more liberal judges in the district.''

''He leans towards the defense.''

''He is your best chance for downward departures.''

''In sentencing, he tends to be very empathetic to the downtrodden or those who commit crimes due to poverty.''

Blind justice doesn't recognize wealth when you commit a crime. It doesn't recognize wealth. If, in fact, that were the case, we should have more severe penalties for people who have greater means. But, instead, we treat everybody the same under the law.

I believe his judicial record confirms the statements of these local practitioners. For example, in the case of United States v. Woolsey, Judge Hamilton ignored the prior conviction of a defendant in order to avoid imposing a life sentence and was reversed by the Seventh Circuit. He ignored a prior conviction. He chose to ignore it. Activist, not following the law, not following the Code of Judicial Conduct. You do not get the choice to ignore it. It is a breach of his judicial oath. Yet he does it.

Here is what the Seventh Circuit said as they criticized Judge Hamilton's decision:

> [The] Indiana district court was not free to ignore Woolsey's earlier conviction . . . we have admonished district courts that the statutory penalties for recidivism . . . are not optional, even if the court deems them unwise or an inappropriate response to repeat drug offenders.

In yet another case demonstrating his empathy toward criminals, Judge Hamilton took the unusual step of issuing a separate written order of judgment and conviction ''so that it may be of assistance in the event of an application for executive clemency'' because he believed the 15-year mandatory sentence he was forced to impose on a child pornographer was too harsh.

In this case, U.S. v. Rinehart, the defendant, a police officer, pled guilty to two counts of producing child pornography after he took pictures of a 16-year-old girl engaged in ''sexually explicit conduct'' and took videos of himself and a 17-year-old girl engaging in sexual relations. These images ended up on his home computer, and he was charged under the Child Protection Act of 1984.

In a separate written order of judgment, Judge Hamilton concluded by stating his personal views in this case and urging executive clemency. He is stating his personal views in this case, in other words, not that of a judge. He has stepped out of being a judge. Now, using the role of a judge, he is using his personal views to influence clemency. Here is what he said:

> This case, involving sexual activity with victims who were 16 and 17 years old and who could and did legally consent to the sexual activity, is very different. But because of the mandatory minimum sentence of 15 years required by 18 U.S.C., 2251(e), this court could not impose a just sentence in this case. The only way that Rinehart's punishment could be modified to become just is through an exercise of executive clemency by the President. The court hopes that will happen.

He later confirmed to us that he thought that action was appropriate. When Congress passed the Child Protection Act of 1984, at issue in this case, it determined that in order to strengthen Federal child pornography laws, a child is defined as someone under the age of 18. So what did Judge Hamilton do? He said what we say doesn't make any difference. The fact that the legislative body signed it, and it was put into law by the executive branch—he didn't think that counted because he didn't agree with it. So he went outside of it to try to get clemency based on him thinking we were wrong. He didn't have any basis of law to do it, but then did it anyway.

In our constitutional system of government the power to create legislation is assigned to the Congress and a judge must simply interpret the law as it is written. This judge refused to do that.

When a judge second-guesses Congress, criticizes its legislative decisions as being unfair, and invites a grant of clemency, he undermines the rule of law and the confidence the American people have in their government. Judge Hamilton's action in this case belies his tendency to empathize with criminal defendants.

These are just a few of the statements and opinions in Judge Hamilton's record that form the basis of my opposition. I believe he is an activist jurist. He has shown that he will allow his personal biases and prejudices to affect the outcome of cases before him. I do not believe he deserves a promotion to the Seventh Circuit where he will be even less constrained by precedent and the possibility of a reversal on appeal.

I will be voting against his confirmation, and I believe the people of this country should be very wary of other judges who have an activist bent, who disrespect the rule of law, who believe they do not have to look at precedent, who, because their personal bias is different than what the law says, believe they can be in a position to effect change in the law rather than have it come through, or all the way to the court, to do that.

The job of the judge is to interpret the law and the facts carefully. This judge does not do that.

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.

The PRESIDING OFFICER (Ms. STABENOW). The distinguished assistant majority leader.

Mr. DURBIN. 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. DURBIN. I rise to speak in support of the nomination of David Hamilton, who is President Obama's nominee to serve on the U.S. Court of Appeals for the seventh Circuit.

This appellate court has jurisdiction over three states, including my home State of Illinois. Because the Supreme Court takes so few cases these days, the circuit courts have the final word in 99 percent of Federal cases. In other words, the buck stops with the Seventh Circuit for the vast majority of my constituents when they have a legal grievance.

Yesterday, we had to have a cloture vote on the Hamilton nomination because a majority of Republican Senators wanted to filibuster it. Three-quarters of the Republican caucus voted to filibuster Judge Hamilton. That is astonishing.

Judge Hamilton is a moderate, mainstream judge who has earned an outstanding reputation during his 15 years of service on the Federal district court. He has strong bipartisan support, including the support of Republican Senator RICHARD LUGAR.

Another reason I was surpri ed to see the filibuster attempt is because, during the Bush administration, Senate Republicans made speech after speech about their fervent belief that every judicial nominee deserved an up or down vote on the Senate floor. If I had a dollar for every time a Republican Senator advocated for this position, I would be a wealthy man.

This was such an article of faith among the Senate Republicans during the Bush years that they tried to change the rules of the Senate to ban the filibuster of judicial nominees and to require up or down votes. This was called the ''nuclear option'' and the Senate spent days and weeks debating this issue. Thankfully, a handful of courageous Republican Senators opposed it, and this cynical effort was defeated.

We are today seeing a complete double standard when it comes to the way some of my Republican colleagues are treating judicial nominations. When President Bush was in office, they wanted to rubberstamp every nomination. Now that the tables have turned and we have a Democratic President, we have seen unprecedented obstructionism from the Republican side.

Under President Bush, over half of his judicial nominees were confirmed by voice vote or unanimous consent. The Democrats consented to their confirmation without requiring time being spent on a rollcall vote on the Senate floor. The Republicans, by contrast, haven't agreed to a voice vote or unanimous consent on a single one of President Obama's judicial nominees.

In addition, many of the Bush nominees were confirmed within days of being approved by the Judiciary Committee. The average circuit court nominee under President Bush was confirmed just 29 days after being voted out of the Judiciary Committee. By contrast, the average Obama circuit court nominee has had to wait 141 days between the committee vote and confirmation. President Obama's circuit court nominees have had to wait five times longer than President Bush's nominees for a vote.

As a result, the Republicans have ground the judicial nomination process almost to a halt. They have agreed to votes on only seven of President Obama's judicial nominees.

Let's compare this confirmation rate with the number of judges who were confirmed by Thanksgiving under past Presidents. Under President Bush, there were 18 judges confirmed by Thanksgiving. Under President Clinton, there were 28. Under the first

President Bush, there were 15. Under President Reagan, there were 29, and under President Carter there were 26. President Obama has had only 7 judges confirmed—due to Republican stalling tactics.

The Republican obstructionism isn't limited to President Obama's judicial nominations. As of today, they are holding up 40 different nominations, including 10 judicial nominees and 30 executive branch nominees. The vast majority of these nominees are noncontroversial. They were passed with unanimous support in the Senate committee of jurisdiction.

Many of the individuals who are being held up by Senate Republicans have been nominated for important administration positions and long-vacant Federal judgeships. Without Senate confirmation of these nominees, many Americans will see delays in their ability to seek justice in our courts, and delays in the ability of the Obama administration to tackle some of our most pressing national problems.

Unlike many of the judicial nominees sent up by President Bush, the current President has bent over backwards to identify consensus nominees—like Judge David Hamilton—who have bipartisan support. Many of President Bush's judicial nominees, by contrast, did not have bipartisan support or home-State Senator support. With many of President Bush's nominees, it was clear that the Bush White House wanted to pick a fight, rather than a judge.

President Obama is a breath of fresh air. Every single one of his judicial nominees has the support of their home State Senators, be they Democrats or Republicans.

Senator LUGAR—a conservative Republican from Indiana—came to the Senate floor this week and made a strong and compelling case for Judge Hamilton's confirmation. When he introduced Judge Hamilton to the Senate Judiciary Committee in April, Senator LUGAR said the following:

> I believe our confirmation decisions should not be based on partisan considerations, much less on how we hope or predict a given judicial nominee will ''vote'' on particular issues of public moment or controversy. I have instead tried to evaluate judicial candidates on whether they have the requisite intellect, experience, character and temperament that Americans deserve from their judges, and also on whether they indeed appreciate the vital, and yet vitally limited, role of the Federal judiciary faithfully to interpret and apply our laws, rather than seeking to impose their own policy views. I support Judge Hamilton's nomination, and do so enthusiastically, because he is superbly qualified.

I hope my colleagues across the aisle will keep these words in mind when they vote on the Hamilton nomination.

Is Senator LUGAR the only Republican in Indiana who supports Judge Hamilton? No. Another prominent Republican supporter is the president of the Indiana Federalist Society: Geoffrey Slaughter. The Federalist Society is an organization of ultraconservative lawyers, and they don't typically support Obama nominees. But the Indiana Federalist Society president has said:

> I regard Judge Hamilton as an excellent jurist with a first-rate intellect. He is unfailingly polite to lawyers. He asks tough questions to both sides, and he is very smart. His judicial philosophy is left of center, but well within the mainstream.

Does that sound like the type of judicial nominee who should be filibustered?

The critics of Judge Hamilton have singled out a handful of decisions in his 15 years on the bench and 8,000 cases. Senator LUGAR has done an excellent job explaining why Judge Hamilton's rulings were sensible and defendable.

The Hamilton nomination has been pending on the Senate floor for nearly 6 months. Enough is enough.

NOMINATION OF MARY L. SMITH

Madam President, I would also like to discuss another nominee whom the Republicans have been stalling: Mary L. Smith. She is President Obama's nominee to be the Assistant Attorney General for the Tax Division at the Justice Department. Mary is from my home State of Illinois, and Senate Republicans have been holding up her nomination for over 5 months.

Mary Smith is a highly qualified nominee who has had a distinguished 18-year legal career. After graduating from the University of Chicago law school, she clerked for a prestigious Federal judge and then litigated at a large Chicago law firm. She then worked as a trial attorney in the Justice Department's Civil Division and as a lawyer in the Clinton White House.

Mary returned to private practice and joined the international law firm of Skadden, Arps, Slate, Meagher & Flom, where she focused on business litigation. After 4 years at Skadden, she went to work at Tyco International, where she managed what has been called the most complex securities class action litigation in history.

Mary has also been deeply devoted to pro bono work and public service, which really tells the story of a lawyer's dedication to the profession. She serves on many bar association boards including the Chicago Bar Foundation, which helps provide free legal services to low-income and disadvantaged individuals.

Mary Smith is not only a highly qualified nominee, she is a historic nominee. Mary is a member of the Cherokee Nation and, if confirmed, she would be the first Native American to hold the rank of Assistant Attorney General in the 140-year history of the Justice Department. She would be the highest ranking Native American in DOJ history.

I was sorry to see that when we took up Mary Smith's nomination in the Senate Judiciary Committee, the Republican members voted against her. They alleged she was unqualified for the job because she doesn't have as much tax law experience as other recent Tax Division nominees.

The Judiciary Republicans are grasping at straws with this allegation. First of all, it is an inherently subjective determination. There is no record of how much time Mary Smith has spent working on tax issues compared with previous nominees.

It is true Mary is not a traditional tax lawyer, but she has worked on tax law and tax policy issues throughout her career. During the years she worked at Tyco International, she worked closely with that company's tax department on responding to IRS subpoenas and assessing the complex tax implications of the $3 billion settlement of the Tyco securities litigation.

When she served in the Clinton White House she worked with congressional offices, the Treasury Department, and the National Economic Council to address tax disparities between Indian tribes and State governments.

And more recently, she served on President Obama's Justice Department transition team, and she helped review and analyze the Tax Division, the very office she has been nominated to lead.

The second reason the Republican allegation about Mary Smith's qualifications is off base is because Mary has more litigation, management, and Justice Department experience than previous Tax Division nominees. Those are critical qualifications to lead the Tax Division. In this respect, Mary Smith is more qualified than her predecessors.

Mary is a seasoned litigator who has had multiple trials and courtroom experience. The head of the Tax Division needs first and foremost to be a person with litigation experience, and Mary Smith fits the bill. She has been a litigator in the Justice Department, in two large law firms, and in one of the largest corporations in the country. Two of the recent Tax Division leaders—whom the Judiciary Republicans hold up as models of what it takes to lead that office—had no litigation experience and never had a single trial.

Mary is also more qualified than some of her predecessors when it comes to management experience. The Tax Division is an office with over 350 attorneys. When she worked on the Tyco litigation, Mary managed over 100 lawyers and a $50 million budget. She managed large litigation teams while working at the Skadden Arps law firm. And during her service in the White House, she helped manage and coordinate the work of multiple Federal agencies. None of the other recent Tax Division nominees had as much management experience as Mary Smith, a fact that has little value to the Judiciary Republicans who voted against her.

Mary also has more Justice Department experience than her recent predecessors. She worked in the DOJ Civil Division as a trial attorney, and she was a key member of President Obama's DOJ review team last winter. She understands the Justice Department as an institution, and the perspective of the DOJ career staff.

In short, Mary has an excellent background to lead the Tax Division. She has litigation experience, management experience, DOJ experience, and tax experience. None of the previous heads of that office had all of these qualifications combined.

One of those prior Tax Division leaders, Nathan Hochman, has come forward in support of Mary Smith's nomination. Mr. Hochman was the head of the Tax Division under President George W. Bush, so he's not exactly a partisan Democrat. Mr. Hochman wrote a letter to the Senate and said the following:

> I am confident Mary will provide strong leadership for the [Tax] Division and is a good choice. . . . Mary's private practice experience in complex financial litigation gives her a working background for the type of cases litigated by the [Tax] Division.

I would suggest that President Bush's Tax Division leader has a better understanding of what it takes to lead the Tax Division than a handful of Senators.

Ted Olson is another prominent Republican who supports Mary Smith for this position. Mr. Olson is one of the most respected lawyers in America and he served as the Solicitor General at the Justice Department under President George W. Bush. He worked closely with the Tax Division and represented that office in cases before the Supreme Court.

Ted Olson wrote a letter to the Senate and called Mary Smith ''a first-rate litigator'' and ''a fine choice to be this nation's Assistant Attorney General for the Tax Division.''

The Senate has received dozens of other letters of support for Mary Smith, including many from our Nation's leading Native American leaders. They are eager for the Senate to confirm Mary so she can become the highest ranking Native American in the history of the Justice Department.

The month of November is National American Indian and Alaska Native Heritage Month. We would honor our Native American community by confirming Mary Smith this month.

I urge my Republican colleagues to stop blocking this important nomination and agree to a vote on my Illinois constituent, Mary Smith.

Mr. BUNNING. Madam President, I rise today to speak in opposition to the nomination of Judge David Hamilton for the Seventh Circuit Court of Appeals.

First of all, I would like to speak on the state of the judicial nomination process in the Senate. For several weeks now, I have listened to my colleagues on the other side of the aisle speak on this floor about so-called obstructionism by the minority regarding judicial nominations. For 214 years, the U.S. Senate enjoyed a tradition of holding fair up-or-down votes on judicial nominees regardless of the Senate's political makeup. Beginning in 2003, my colleagues on the other side of the aisle ended that tradition when they successfully filibustered 10 judicial nominations by President Bush whom they considered ''out of the mainstream.'' At the time, we insisted that this was a bad and inefficient precedent to set. However, the other side insisted on traveling down that road. Now the majority claims that if we in the minority care about the good of the country, we should just let any judicial nomination by the President sail through the Senate without any objection. I would encourage those Senators to come to my office to listen to the hundreds of Kentuckians who call and write every day in opposition to the nomination of Judge Hamilton and tell those people that they are being ''obstructionists.''

Judge Hamilton's judicial record is not only insufficient for the Seventh Circuit, it is downright scary. He prides himself on blatant judicial activism. On multiple occasions, Judge Hamilton has argued that judges have the power to change the Constitution when making court decisions. He has stated:

> part of our job here as judges is to write a series of footnotes to the Constitution.

If Judge Hamilton would have properly read the Constitution, I am sure he would have realized that it explicitly says that Congress is the only branch which has the authority to make any kind of additional mark to that document.

Looking at his record, Mr. Hamilton has issued some very troubling rulings on child predators. He specifically invalidated a law that required convicted sex offenders to provide information to law enforcement agencies for tracking purposes. In another instance, Mr. Hamilton petitioned the President to grant clemency for someone guilty of producing child pornography. The Supreme Court only hears a small fraction of petitioned cases, and, in many cases, precedent is set at the circuit level. Does anyone want someone on the bench setting this kind of precedent?

Furthermore, in practicing his judicial activist point of view, Judge Hamilton struck down an Indiana law that simply required women to receive medical information on the effects of an abortion before going through the procedure. This is a commonsense law and similar laws have never been invalidated by any other judge in the country. The Seventh Circuit Court, to which Mr. Hamilton has been nominated, reversed and was harshly critical of this ruling. The Seventh Circuit reversed another outlandish ruling of Judge Hamilton's. He prohibited prayer in the Indiana House of Representatives that mentioned Jesus Christ, but inconsistently allowed prayers that mention Allah. These outline a very troubling pattern on the bench.

If any of the President's judicial nominees deserve scrutiny, Judge Hamilton is one of them. His record is clearly out of the mainstream of public opinion and he clearly is motivated to push his own political agenda. A good judge is able to set aside his or her own personal opinions when deciding cases. I do not believe that Judge Hamilton can do this. I strongly encourage my colleagues to oppose this nomination.

Mr. DODD. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Connecticut.

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

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

CREDIT CARD RATE FREEZE ACT OF 2009

Mr. DODD. Madam President, I wish to make some brief comments. I will yield to my colleague from Colorado, Senator UDALL, in a moment, and then at the conclusion of his comments I will propound a unanimous consent request. I will not do that until I know there is an objection that will be rendered, and I would certainly wait until I know that is coming. I will not, obviously, make the request until that person arrives so they can express their objection. Regretfully, I might add, they are going to express that objection, but, nonetheless, I don't want them to be worried that I would somehow try to sneak this in, knowing there is an objection to be filed.

I rise this afternoon in support of legislation that would do something that I think most Americans would support as well, regardless of where you live and what your economic circumstances may be; that is, to freeze interest rates on existing credit card balances until the full protections of the Credit Card Accountability Act we wrote earlier this year go into effect. As many of my colleagues will recall, on a vote of 90 to 5, we passed a bill early this year by a near unanimous vote because we all heard the same stories from our constituents across the country: Credit card companies charging outrageous fees; consumers finding out that the interest rates had been jacked up for no apparent reason whatsoever; families struggling to make ends meet and being driven further and further and further into debt by what I would describe as abusive practices.

On that day, on the day we passed the bill, we declared that credit card companies were unfairly padding profits at the expense of the people we work for, so we put a stop to it. Today, it is no different, unfortunately. Knowing that the Credit Card Act will finally protect consumers from these abuses, the industry has tried to make one last grab for their customers' pocketbooks, and that is what has been going on over these past several months. I think this behavior is deplorable, to put it mildly. We can, once

again, put a stop to it, and that is what I will be proposing shortly.

The legislation I rise to discuss would immediately freeze interest rates on credit cards to ensure that Americans are protected until the full provisions of that law go into effect in February. The holiday season is upon us. Hard-pressed Americans want to go out and do what they can to help their families and to celebrate at a very difficult time. Some joy—and a lot of that will have to occur, obviously, by taking a credit card out to make those purchases during the holiday season, the Thanksgiving break coming up, for putting food on the table, traveling, calling a family member, calling a friend. All those activities, to some degree, given the hardship people are feeling, will require them to use that credit card in too many cases.

To do so, of course, they are watching in this window an industry continuing to skyrocket these rates as well as these fees on people.

Let me tell my colleagues something: The reason we allowed a gap period between the passage of the legislation and the imposition of the regulations or the statutory requirements was because the industry came to me and said: Senator, we are going to need some time to administer—to change how we provide these kinds of benefits to people, so would you give us a little window here to operate. On the basis of that request, we did so. They wanted longer, but we thought February was fine. If that had been what they had done, I think most of us would say we understand that. Unfortunately, they have taken that window and used it as a way to jam in on the consumers of this country, particularly at a time when, again, people are losing their jobs, their homes, their health care, their retirement, and the holiday season is upon us.

Every 6 months, card companies will be required, under our bill, to review each account they hit with a high rate hike since January of 2009 and reduce the rate if the customer has become less of a credit risk.

As consumers, obviously, we have a responsibility to spend within our means and to pay what we owe. We bear that responsibility. But the credit card industry as well has a responsibility to deal with their customers honorably. There is nothing honorable about what has happened with these significant rate increases and fees. Most importantly, they don't have a right to rip off American families, especially when the Congress has already gone on record opposing the very actions they are engaging in and doing so in a timeframe that was given to them to adjust to the new changes that will occur under the credit card legislation. Instead of fulfilling that obligation, they are using it as a window to grab as much as they can out of the pockets of hard-pressed consumers.

So let us help consumers have a break in all this. I see my colleague from Colorado and I will yield to him for a couple minutes and when he finishes his remarks I will make a unanimous consent request that we proceed to the immediate consideration of Calendar No. 189, the Credit Card Rate Freeze Act; further, that the bill be read a third time and passed, and that a motion to reconsider be laid upon the table with no intervening action or debate. This would provide us a window of about 12 weeks—that is what it amounts to, between now and the 1st of February—during this holiday season to put a stop to these outrageous rates and fees being charged to people.

I hope my colleagues, whether you agreed with the bill—although most did; 90 colleagues voted for the bill in the spring—why wouldn't you join us today in allowing 12 weeks for a freeze on these rates that are occurring to give our fellow citizens across this country a chance to meet these obligations.

With that, I yield to my colleague from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Madam President, I rise in support of the motion that has been made by the senior Senator from Connecticut, which requests consent for the Credit Card Rate Freeze Act. I wish to associate myself with his remarks. I am a proud original cosponsor of his bill. I wish to urge, as our chairman has, our friends on the other side of the aisle to lift their holds on this important legislation.

Credit card companies have forced unfair and abusive practices on American consumers for too long. I have fought for several years and introduced a number of bills that would put an end to these practices. We passed a law this year that will level the playing field for consumers and put an end to the worst abuses by February of next year.

Let me tell my colleagues what has been happening since then. Credit card companies are using that time before the new law goes into effect to get rate and fee hikes in under the wire. It is happening at the worst time possible, as the chairman pointed out. American families are struggling in a recessionary period. The last thing our families need is higher interest rates and extra fees, especially on consumers who are already playing by the rules.

This has been a classic case of a David versus Goliath situation. I say it is time to take on Goliath and stop credit card companies from gaming the system at the expense of American consumers. This bill Chairman DODD and I are supporting would provide consumers and small businesses who play by the rules a better foundation to pay off their debts, or to buy groceries and business supplies, and most important, they should get fair treatment from the credit card companies.

This is a critically important bill for economic recovery. It is the right thing to do. I urge my friends on the other side of the aisle to join us and allow it to move forward.

Mr. DODD. Madam President, I thank my colleague for his remarks. Many others have similar views on this. I regret that there is going to be an objection filed to a measure that would have allowed us to do something meaningful for our fellow citizens at this time of the year.

Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 189, S. 1927, the Credit Card Rate Freeze Act of 2009; further, that the bill be read the third time and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. Madam President, on behalf of several Senators on this side of the aisle, I object.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Madam President, I am sorry there is an objection. I will yield to the Senator from New Jersey. I will take the floor after the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Madam President, to my colleague from New York, Senator BENNET and I are here on a different matter. If the Senator will be brief, I am happy to wait until he finishes.

Mr. SCHUMER. I thank the Senator for his usual graciousness. I commend my colleague from Connecticut for the outstanding job he has done on this issue. I regret that the consent to move to the legislation has been blocked.

The bottom line is this: We know there are real problems in the credit card industry. We know that things are happening you would never imagine would happen. People are moving interest rates—maybe you had your balance at $4,000, 7 percent, and you know your family budget, and then it goes up to $23,000. This legislation would have stopped that.

What the banks are doing now is jumping the gun and moving things ahead in a way that is very wrong. To move up the date would simply make sure this legislation affects more people than it would have. It is a good idea. I hope we will still reconsider it later. I hope the public, who cares about this, will let all Senators from both sides of the aisle know how important this is.

With that, I thank the Senator from Connecticut. He has been such a leader in fighting for consumers throughout this session. He deserves every American's thanks.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Madam President, I know my colleague from Colorado, Senator BENNET, wants to speak to this issue as well. He has been a champion, along with me and several others, to try to bring justice to an issue that is incredibly important.

It is no secret that decades of indifference and discrimination in lending practices at the U.S. Department of Agriculture have made it difficult for minority farmers—specifically Hispanic farmers—to make a living at what they love to do and have done, in many cases, for generations, leaving many no choice but to leave the farms and ranches they have tended to all of their lives.

In the year 2000, 110 Hispanic farmers brought a lawsuit against the U.S. Department of Agriculture for the same egregious discriminatory practices that resulted in a historic settlement with African-American farmers. For 8 long years, under the last administration, thousands of Hispanic farmers who joined the suit waited and waited and waited for justice. Some of them died waiting and will never be made whole. For 8 long years, the Bush administration did nothing.

These hard-working farmers, Hispanic families, who bought a piece of land and built a family farm—their small piece of the American dream—were wrongly denied loans and other benefits in violation of the Equal Credit Opportunity Act by county committees that review Farm Service Administration credit and loan applications for approval. Consequently, these farmers filed suit in the hope that it would change the discriminatory practices at the USDA, how it treated America's minority farmers; but under the Bush administration, nothing changed, the discrimination continued.

Then something did change. We got a new President and a new Secretary of Agriculture, who described past practices at the U.S. Department of Agriculture as ''a conspiracy to force minority and socially disadvantaged farmers off of their land.'' Consequently, the administration committed to appropriate $1.25 billion in the fiscal 2010 budget to settle some of the outstanding discrimination lawsuits but not all of them. To date, Hispanic farmers, women, and Native Americans have not yet seen a settlement.

We need to remedy this situation once and for all. The new U.S. Department of Agriculture Secretary needs to make these farmers whole. Secretary Vilsak has created a task force to review the park and civil rights complaints and announce new efforts for the U.S. Department of Agriculture to end any and all discriminatory practices, and I commend the secretary for addressing this lingering issue. But more needs to be done.

As I said, along with seven of my colleagues, in a letter to the President, quoting from that letter, we said:

> The U.S. Department of Agriculture's corrective role in this instance has been clearly laid out, and there remains no legitimate reason to delay action for any of the affected groups.

The fact is that 8 years after a do-nothing Republican administration that earned the U.S. Department of Agriculture the designation of ''the last plantation,'' putting people's lives and livelihoods at risk, we simply cannot wait any longer. Certainly, for example, Alfonso and Vera Chavez cannot wait any longer. The Fresno Bee reported last week that Mr. and Mrs. Chavez stopped farming 7 years ago when they could not get a USDA loan. In fact, they said they not only could not get the loan but they were discouraged from applying and, even worse, they believed they were given misinformation so they would not apply. To quote Vera Chavez, who told the reporter, ''It was like they didn't want us to have the money.''

Mr. and Mrs. Chavez owned 300 acres. They sold off 200 of those acres, shut down their packing house, and leased the remaining hundred acres to survive. Vera said, ''It is why we have been hanging onto those 100 acres, so my children and grandchildren can have a little piece of land we worked so hard to get. I am not going to give up. But we have written so many letters, had so many meetings, and nothing seems to be moving forward.''

We need to move this forward. It is about fairness, about doing what is right. When we see discrimination in any form, and when those who have been wronged because of their race, gender, or heritage are forced to sell what they have worked a lifetime to build—abandoned by the last administration that cared more about Wall Street than Main Street—we have to make things right for them, for people like Vera and Alfonso Chavez. We need to make sure that they can keep their farms and give them back their lives. All these farmers are asking for is a commonsense solution sooner rather than later, because they have waited long enough.

I received a letter that is addressed to the President. It is a letter from the named plaintiff in the landmark case Pigford v. Glickman. That was a case that brought together African-American farmers in that landmark decision, who were also discriminated against. The letter to the President by Mr. Pigford says, referring to Hispanic, Native-American, and women farmers:

> They have suffered the same discrimination by the United States Department of Agriculture as African American farmers. Just as USDA addressed the claims of African Americans on a classwide basis, it should similarly settle the discrimination claims of Hispanic and other minority farmers on a classwide basis.
>
> . . . Furthermore, it makes no sense for four minority groups to suffer the identical discrimination from the same federal agency and yet only one of those four groups to be compensated on a classwide basis.

It goes on to say:

> Mr. President, fundamental fairness and simple practice demand that you close the entire book on all discrimination at USDA and, consistent with section 14011, ''resolve all pending claims and class actions in an expeditious and just manner.''

I ask unanimous consent to have printed in the RECORD Mr. Pigford's letter to the President.

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

NOVEMBER 18, 2009.

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

DEAR PRESIDENT OBAMA: As the named plaintiff in the landmark case Pigford v. Glickman, I urge you to direct the Secretary of Agriculture and the Attorney General to begin immediately good faith negotiations to resolve the pending discrimination lawsuits brought on behalf of Hispanic, Native American and women farmers pursuant to Section 14011 of the Food, Conservation and Energy Act of 2008 (''2008 Farm Bill''). They have suffered the same discrimination by the United States Department of Agriculture (''USDA'') as African American farmers. Just as USDA addressed the claims of African Americans on a classwide basis, it should similarly settle the discrimination claims of Hispanic and other minority farmers on a classwide basis.

As you may be aware, between 1997 and 2000, in addition to my lawsuit, three other identical lawsuits were filed in the same courthouse: my suit on behalf of African American farmers, Keepseagle v. Glickman on behalf of Native American farmers, Garcia v. Glickman on behalf of Hispanic farmers and Love v. Glickman on behalf of women farmers.

In my case and the Keepseagle case, two different judges (Friedman and Sullivan) certified the cases as class actions on the basis of USDA's admitted failure to investigate discrimination complaints filed by African American and Native American farmers at USDA's behest. USDA failed to investigate the complaints because it had secretly dismantled its civil rights investigatory apparatus in the early days of the Reagan Administration. In the Love and Garcia cases, however, a different judge, Judge Robertson, refused to certify classes on the same basis that Judges Friedman and Sullivan had applied in my case and Keepseagle, respectively, notwithstanding the fact that the D.C. Circuit had renewed those certifications on at least three occasions and had found no fault with the certifications. Indeed, in my case, the D.C. Circuit expressly approved a settlement that has to date resulted in nearly $1 billion being paid to approximately 15,000 African American farmers.

While USDA and DOJ use the lack of class certification as an excuse to refuse to bring about a just and efficient resolution of these cases through negotiations of classwide settlements, such excuses ring particularly hollow. First, USDA and DOJ have steadfastly refused to settle the Keepseagle case despite the fact that it was certified as a class action eight years ago. Second, tens of thousands of African American farmers who missed the filing deadline to participate in the settlement in my case have filed new lawsuits pursuant to Section 14012 of the 2008 Farm Bill. While none of these cases has been certified as a class action, the government has expressed its desire to settle these on a classwide basis and you have announced your intention to appropriate an additional $1.25 billion to cover their damage claims. Third, of the four identical cases handled by three different judges, two judges have certified classes on the basis of USDA's admitted failure to investigate discrimination claims. Fourth, class certification is a procedural matter that does not address the underlying discrimination that is in fact admitted.

Secretary Dan Glickman, the original defendant in all four cases, has testified before Congress that USDA has ''a long history of

. . . discrimination'' and that ''[g]ood people . . . lost their family land not because of a bad crop, not because of a flood, but because of the color of their skin.'' Rosalind Gray, a former director of USDA's Office of Civil Rights, has testified that ''systemic exclusion of minority farmers remains the standard operating procedure for FSA [the Farm Service Agency].''

In addition, both during his confirmation hearing and subsequently, Secretary Vilsack made strong statements expressing the administration's desire, consistent with Section 14011 of the 2008 Farm Bill, to settle all of the pending discrimination cases. Unfortunately, USDA's action have fallen short of the promises contained in Secretary Vilsack's statements. Indeed, the refusal by USDA and DOJ to entertain settlement discussions on a classwide basis is totally at odds with the clearly expressed will of Congress as expressed in Section 14011 and irreconcilable with Secretary Vilsack's repeatedly stated desire to settle all the pending lawsuits. Furthermore, it makes no sense for four minority groups to suffer the identical discrimination from the same federal agency and yet only one of the four groups to be compensated on a classwide basis. The Clinton Administration properly saw fit to order USDA and DOJ to begin negotiations with the representatives of the African American farmers when confronted with the obvious injustice in that case. In announcing last spring an additional $1.25 billion for African American farmers who missed the filing deadline in my case, you stated your hope that your action would ''close a chapter'' in the sorry history of USDA discrimination against minority farmers. Mr. President, fundamental fairness and simple practice demand that you close the entire book on all discrimination at USDA and, consistent with Section 14011, ''resolve all pending claims and class actions in an expeditious and just manner.'' (Emphasis added.) The only thing standing between ''an expeditious and just'' resolution of these cases is the will to do it. You, sir, are in a unique position to end once and for all USDA's all-too-well deserved reputation as ''the last plantation'' and to bring long-overdue accountability and transparency to the USDA-administered farm credit and non-credit farm benefit programs.

Respectfully,

TIMOTHY C. PIGFORD.

Mr. MENENDEZ. We urge Secretary Vilsak to ensure all farmers will be granted the same consideration so they can begin to rebuild their lives and their farms this year. Despite clear language in section 14011 of the Food Conservation and Energy Act of 2008, which urges the administration to settle lawsuits brought by Hispanic and other farmers, the administration clearly needs to assure Hispanic farmers, many who have come to me, Senator BENNET, and others to ask for help, that it fully intends to address these cases consistent with section 14011 of the 2008 farm bill.

We simply cannot continue down this winding road to nowhere. To ignore the plight of the thousands of Hispanic farmers, families who seek nothing more than justice, who want only a chance to keep the farms and ranches they worked so hard for all of their lives, is wrong.

For 8 years, thousands of families like the Chavezes were ignored. Now we need to change that. We need to move quickly to resolve what is clearly and patently unfair and unjust. You will never turn the page on the past discriminatory practices within USDA until all victims—every last one of them—are made whole for the loss of their land, their dignity, and their hope for a decent life for themselves and their families. Let us move quickly to give them the chance they have waited for, the chance to rebuild their lives.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. Madam President, I am very pleased to rise today to join the Senator from New Jersey to discuss the injustices committed against Hispanic farmers over the course of many years. I also thank Senator MENENDEZ, the congressional Hispanic caucus, and my colleagues who have come to the floor to demonstrate their leadership on this issue.

For the reasons Senator MENENDEZ laid out, it is long past time to call attention to this indefensible injustice and to lend our voices to a better way forward. As is well known, for years—decades—minority farmers were systematically discriminated against when they visited local USDA farm service agency offices all across this country. They were denied loans and farm program assistance because of their skin color, ethnicity, or gender. Senator MENENDEZ did a good job describing the case.

I want to give some examples from my State, because in many cases, because of this discrimination, these farmers lost their livelihoods and their way of life. If we choose to let some of them make their case, and deny that chance to others, then we repeat these historic civil rights wrongs all over again.

Among the many letters I have received is a declaration from Mr. Gomez of Alamosa, CO, a former USDA employee who served his country for 30 years. In seven pages of excruciating detail, Mr. Gomez explains how he, as a loan officer, witnessed discrimination in granting of FSA loans. Reasons loans were denied were recorded as ''insufficient experience,'' or other subjective terms. As Mr. Gomez gained more responsibility, he was eventually in a position to review loan applications from around the region he supervised, and he became increasingly aware of a pattern of discrimination.

In another letter, Mr. Sandoval of Antonito, CO, tells of repeatedly being turned away from local loan offices and denied FSA loans on grounds that he did not have the ''character'' necessary. Mr. Sandoval explains how his inability to access credit through the USDA limited his ability to grow his farming operation and become a more successful farmer.

Another Mr. Sandoval of Commerce City, CO, writes:

> This has been going on for so long that some farmers have lost their lives waiting for justice to prevail.

Mr. DeHerrera, also of Antonito, CO, writes:

> In desperation, I approached [someone] at the . . . FSA to request a loan of approximately $80,000 so I could at least keep the farm from being foreclosed. . . . He told me very hatefully that they refused to approve either my loan or the loan of the Sandoval brothers.

He continues:

> I am convinced [FSA] refused to approve the Sandoval's loan because both the buyer and the seller of the farmland to be purchased were Hispanic American farmers.

Reading through the many letters I have received from Hispanic farmers in Colorado and the meetings I have had all across my State and the letters from people all over the country, a pattern emerges—one of thinly veiled discrimination that starts by discouraging Hispanic farmers from applying for FSA loans in the first place. All too frequently, this discrimination resulted in the loss of a farm and the loss of a way of life.

I have had farmer after farmer say they had to get out of the business of farming, that they could not leave their farms to their children, which is the only dream they have in their life, because of the discrimination they suffered at the hands of our Federal Government.

President Obama's new Agriculture Secretary, Tom Vilsack, has repeatedly, much to his credit, emphasized his commitment to addressing the longstanding civil rights problems that have plagued the Department and to charting a new era. I commend the Secretary's commitment and the dedication the Obama administration has made to chart a new future for the USDA.

Yet that does not fix the wrongs of yesterday. Congress has taken some positive steps, and the administration has created a process for resolving the claims of some minority farmers, even dedicating significant funds toward this end. But a path to justice has not yet been charted for Hispanic farmers.

The best way America can send a message that our government will not discourage minorities from participating in public programs, will not discriminate against them, is proactively to pursue justice.

It is time the administration and Congress come together and do more than just acknowledge past wrong doing at the USDA. It is time to address that wrongdoing.

I will say that my predecessor in this job, Ken Salazar, our great Senator from Colorado, now our Interior Secretary, comes from a part of my State called the San Luis Valley. Ken Salazar's family settled that land long before Colorado was even a State. If you drive down there and visit San Luis, what you will see is an irrigation ditch that was dug before our State was even a State. Among the names of the people, the names of the farmers and the ranchers who were entitled to take water from that ditch because

they had been there, and had been there to dig that ditch, is the name Salazar, the proud name Salazar. It is wrong, after generations of people have committed their lives and their families to agriculture in places such as Colorado and all across the country, that we have discriminated against them for decades and, when that discrimination is discovered because of some legal technicality or because they got the wrong judge, they find themselves unable to redress that discrimination.

I am very pleased to have the chance to be here today with Senator MENENDEZ and other colleagues to call this to the attention of the administration and to say that we need to do more than just acknowledge this problem. It is time for us to help address the problem.

Madam President, I yield the floor.

Mr. UDALL of Colorado. Madam President, today I join my colleagues in bringing this body's attention to an issue of fundamental fairness that continues to remain unaddressed.

More than 10 years ago, Hispanic farmers from my home State of Colorado joined other Hispanic farmers throughout the country to stand up against injustice. They chose to confront—rather than accept—discrimination when they filed their case against the U.S. Department of Agriculture on grounds that the Farm Service Agency denied loans and disaster benefits in violation of the Equal Credit Opportunity Act and the Administrative Procedure Act.

Earlier this month, I met some of these farmers in Colorado's San Luis Valley. Many of these men and women proudly trace their heritage to some of the first settlers of Colorado who were the first to till the soil of the San Luis Valley and establish Colorado's earliest farming communities, spurring the development of southern Colorado.

Now, I understand that every farmer takes on enormous risk to keep our country fed and prosperous. Yet when these farmers applied for Federal assistance intended to make them whole again—assistance intended to help family farmers stay in business—the record suggests that this aid was denied or delayed, not because their request lacked merit but because of their Hispanic heritage.

I found that shocking. It wasn't any weather event that led these men and women to financial hardship or the loss of their family farm. The obstacles they faced when applying for a loan or disaster assistance were far worse than any drought, flood, hail or windstorm they had ever confronted. It was discrimination based on their heritage that kept them from receiving timely support from an agency whose mission is to support all of America's farmers equally.

Evidence of discriminatory practices in the U.S. Department of Agriculture is an unfortunate and shameful part of our history. On several occasions, I have joined my colleagues in the Senate and in the House to express our desire to bring this disgraceful chapter to a close. During the most recent debate on America's 2008 farm bill, we affirmed that it is the sense of Congress that all pending claims and class actions brought against the Department of Agriculture by socially disadvantaged farmers or ranchers be resolved in an expeditious and just manner.

I would like to acknowledge that Secretary of Agriculture Tom Vilsack has been courageous in this matter, and I am pleased that the administration views this as a priority. I am also pleased that the Secretary has expressed his intent to ensure that no other farmers experience the same discrimination and that he will take definitive action to improve USDA's record on civil rights. I remain ready and willing to work with the administration and my colleagues to support this policy.

I want to emphasize that this is an issue of fundamental fairness. The sooner we can resolve this, the sooner we can look forward to a USDA that serves all Americans equally. It is my hope that these cases be resolved expeditiously and fairly so that the farmers and their families who have suffered the real effects of discrimination can finally put this matter to rest.

COMMENDING ROBERT C. BYRD

The PRESIDING OFFICER. The distinguished Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 354, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

S. RES. 354

Whereas, Robert C. Byrd has served for fifty-six years in the United States Congress, making him the longest serving Member of Congress in history,

Whereas, Robert C. Byrd has served over fifty years in the United States Senate, and is the longest serving Senator in history, having been elected to nine full terms;

Whereas, Robert C. Byrd has had a long and distinguished record of public service to the people of West Virginia and the United States, having held more elective offices than any other individual in the history of West Virginia, and being the only West Virginian to have served in both Houses of the West Virginia Legislature and in both Houses of the United States Congress;

Whereas, Robert C. Byrd has served in the Senate leadership as President pro tempore, Majority Leader, Majority Whip, Minority Leader, and Secretary of the Majority Conference;

Whereas, Robert C. Byrd has served on a Senate committee, the Committee on Appropriations, which he has chaired during five Congresses, longer than any other Senator;

Whereas, Robert C. Byrd is the first Senator to have authored a comprehensive history of the United States Senate;

Whereas, Robert C. Byrd has throughout his service in the Senate vigilantly defended the Constitutional prerogatives of the Congress;

Whereas, Robert C. Byrd has played an essential role in the development and enactment of an enormous body of national legislative initiatives and policy over many decades: now, therefore be it

Resolved, That the Senate recognizes and commends Robert C. Byrd, Senator from West Virginia, for his fifty-six years of exemplary service in the Congress of the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Madam President, when Senator ROBERT C. BYRD first entered the Senate in January 1959, he shared the floor with three future Presidents: Senators Lyndon Johnson, John Kennedy, and occasionally, when a tie-breaking vote was needed, Vice President Richard Nixon. Those men now belong to history, but Senator BYRD is still making history.

It is an honor to see him make history, once again, as he becomes the longest serving Member of Congress in the history of America. He has given 56 years, 10 months, and 16 days—a total of 20,744 days—of dedicated service to the Congress, to the Constitution of the United States of America, and, of course, to his beloved West Virginia. What a remarkable achievement.

Senator BYRD's masterful, four-volume history of this body is the definitive account. His own historical records could fill nearly a volume of history for the Senate on its own. He served in Congress with—not under—11 different Presidents. Three and a half years ago, he became the longest serving Senator in our Nation's history, and he is the only Senator ever elected nine times to the Senate. He has cast more votes—18,585—than any other Senator in history. All these records are unlikely ever to be broken.

He has also presided over both the shortest session of the Senate in history—six-tenths of a second on February 27, 1989—and the longest continuous session—21 hours, 8 minutes—on March 7 and 8, 1960. He has held more leadership positions—majority whip, minority leader, majority leader, and President pro tempore—than any other Senator in history.

During the administration of President Jimmy Carter, Senator BYRD, then the majority leader of this body, was criticized by some for not doing enough to help the President of his party. Senator BYRD replied:

> I am not the President's man. I am a Senate man.

He is a passionate and unyielding defender of Senate rules and prerogatives—not as an end in themselves but as a means of preserving our Constitution and our balance of power.

I will always remember his eloquent and valiant effort which he waged in 2003 to try to persuade this Senate not to grant broad war-making authority to the executive branch. He was a true study in political and moral courage and it was not missed on the population of America. When my wife and I attended church in Chicago at Old St. Patrick's, our regular parish, after the

communion, as we were kneeling in our pews, an older man came by and leaned over, obviously having followed the Senate debate on the war in Iraq, and said to me in a voice that could be heard around the church: ''Stick with Bob Byrd.'' I told Senator BYRD that story and he loved it.

It is fitting that Senator BYRD keeps a copy of the Constitution in his breast pocket because its promises and obligations are always that close to his heart. In 2001, he was named West Virginian of the Century by his Governor and legislature. Indeed, the name ''Robert C. Byrd'' is nearly synonymous with West Virginia.

The story of his early life is the story of struggle and great achievement. It also is a story highlighted by his marriage to his high school sweetheart Erma Ora James Byrd, a coal miner's daughter. He married her in 1937, and she was his rock for 69 years.

He never gave up on his dream of higher education, earning his law degree from American University in 1963 after attending night school for 10 years. He earned his bachelor's degree from Marshall University in 1994, at the age of 77.

He has been winning elections for 63 years, and he has never—not once—lost a race. He was elected in 1952 to the House, where he served three terms. Before that he served in the house of delegates and the senate of his home State of West Virginia. He is the only person in the State's history to carry all 55 of the State's counties—a feat he accomplished several times—and the only person in the State's history to run unopposed to the Senate of the United States.

Eleven years ago, Senator BYRD spoke about his devotion to the Senate as part of the Leader Lecture Series. He called this Senate ''the anchor of the Republic, the morning and evening star in the American constitutional constellation.''

He described the great panoply of men and women who have served in this body. He has said this Senate ''has had its giants and its little men, its Websters and its Bilbos, its Calhouns and its McCarthys.''

I would offer as well that there has only been one ROBERT C. BYRD. He is a unique patriot, a singular Senator, a Senator's Senator.

We are honored to share this historic milestone with him today. We thank him for his lifetime devotion to America, the Senate, and his beloved Constitution. West Virginia can be proud of this great man who has served them so well for so long.

I yield the floor.

Mr. NELSON of Florida. Madam President, I hope Senator BYRD may be within the reach of my voice because I wish to add my voice to the many who have commended him for his public service, especially today as we mark a milestone in the history of this Nation because our Senate colleague, our President pro tempore, becomes the longest serving Federal lawmaker since the founding of this country.

Many this week are depicting ROBERT BYRD's long list of achievements in numbers, and it is large numbers, and there are certainly many of those achievements. The Senator from West Virginia, for instance, actually began serving in the Senate the same year that Alaska became a State, 1959. He has been elected to no fewer than nine Senate terms. Before the Senate, he served in the House for 6 years, and now in the Senate for 50 years, 10 months, and 18 days. He has cast well over 18,500 votes.

Senator BYRD has presided over the longest session of the Senate—more than 21 hours—and he has presided over the shortest. We have had no fewer than 11 Presidents since he first took office.

But the numbers don't tell all of the story because ROBERT BYRD has been one of the greatest representatives of and advocates for the folks in his beloved State of West Virginia. He is that larger-than-life, that iconic figure in our Nation's history too. He is the Senate's premier Member-observer. He is the Senate's institutional history.

I flash back to that first day—and you never forget the first event of an occurrence in your life. It was my maiden speech, my first speech on the floor of the Senate 9½ years ago. I was at one of those junior desks right over there. I gave my maiden speech. It was actually on the budget. We happened to have a surplus then. I was laying out how we ought to preserve that surplus; as a matter of fact, even use it to pay down the national debt. I happened to mention in the course of my remarks that it was my maiden speech. All of a sudden those doors swung open and in strode Senator BYRD, that white shock of hair flowing as he took his place over there on the center aisle.

As I finished my remarks, he said: Will the Senator from Florida yield? And I said: Of course, I yield to the senior Senator from West Virginia. Senator BYRD proceeded to give extemporaneously a history of the maiden speeches in the Senate.

Of course, I was spellbound, I was awestruck, as I listened to this walking American political history book recite from memory, on that particular occasion, something that had been important to this Senator on the occasion of my very first speech in this extraordinary august body.

Senator BYRD continues to be the Senate's conscience. In the spirit of Thomas Jefferson, ROBERT BYRD has always put public service ahead of personal fortune. On many of our desks—and it is certainly in my personal office in the Senate—are Senator BYRD's addresses on the history of the Senate. There were more than 100 of them delivered in the past 10-year period. They have been called the most ambitious study of the Senate that had ever been undertaken. Every day they serve to remind me of the living history of this institution and its vital role in our democracy.

Senator BYRD has been a dear personal friend to so many of us. He has been such a mentor.

Madam President, since the Vice President of the United States has just entered the Chamber, I wanted to recall for him that 9 years ago, in our freshman class of Senators, Senator BYRD took us on as a special project to teach us the protocol of how to preside. I can tell you what class a Presiding Officer comes from now, if it was a class that was under the tutelage of Senator BYRD, because there was a right way and a wrong way to preside in the Senate. The Vice President is acknowledging that is true.

By the way, I have the privilege of standing at the desk the Vice President used to occupy. I particularly chose this desk because not only has he been such a great mentor to me personally but a very dear friend.

With Senator BYRD, all of us grieved with him 3 years ago when his beloved wife Erma passed away. I know he yearns for her and wishes she could be by his side on this historic day.

Now there is another number that is going to be important in ROBERT BYRD'S life. In just 2 days, he celebrates his 92nd birthday. We all hope we can be here with him for many more years.

Remember what President Reagan had to say about age and leadership. He said:

> I believe that Moses was 80 when God first commissioned him for public service.

If the Lord is using that same commissioning for Senator BYRD, at 92, he has a long way to go. The Lord would certainly say to Senator BYRD: Well done, my good and faithful servant.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, I congratulate Senator BYRD on this historic milestone. It has been my pleasure and a great honor to work and serve with Senator BYRD during his service to our Nation. He has served as a devoted champion to his home State of West Virginia. Senator BYRD is worthy to be part of the history of the United States, as he now becomes the longest serving Member of the Congress of the United States of America. I am pleased to join my colleagues in paying tribute to his great service and the accomplishments of this great American, Senator ROBERT BYRD of West Virginia.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Madam President, following on the heels of my colleague Senator INOUYE, I congratulate Senator BYRD on his many years of public service. Today Senator BYRD passed a landmark in the Senate. He is the longest serving Senator. He came to the Congress in my father's class of representatives in 1954. My father Stewart Udall and the entire Udall clan

congratulate him on his record-setting years of public service.

Mr. BINGAMAN. Madam President, I rise today to pay tribute to Senator ROBERT C. BYRD as he becomes the longest-serving Member of Congress in American history. Senator BYRD has served 56 years and 320 days. During his time in the Senate Senator BYRD has cast more than 18,500 votes, more than any Senator in history.

Senator BYRD was elected to the U.S. House of Representatives in 1952, and he was sworn in to the U.S. Senate on Jan. 3, 1959. This was, coincidentally, the same day that Alaska became a State, and before Hawaii was admitted to the Union. He is now serving an unprecedented ninth term in the Senate.

Yet, to discuss only his longevity would do a grave disservice to the reality of what Senator BYRD has meant to the U.S. Senate and to this country. Many distinguished Members have had long careers in the Senate, but I believe it is safe to say that none have contributed more to the preservation of the history, traditions and strength of the Senate than ROBERT C. BYRD. His knowledge of and reverence for the Constitution has served over these many years to remind us time and again of the beauty, eloquence, and timelessness of that document, and the importance of relying upon it as the touchstone of our deliberations.

Senator BYRD has had many great legislative and oratorical achievements in his time in the Senate, but I wanted to refer briefly to just one today. His outspoken opposition to giving President George W. Bush the power to wage war against Iraq was an inspiration to those of us who shared his views, and he never forgot those who were with him on that vote. The eloquence and passion with which he expressed his views were extraordinarily powerful; his floor speeches exemplified the power of language to shape ideas. I believe that what has transpired in Iraq since those speeches has affirmed the courageous stance that he took.

In conclusion, it is an honor and a privilege to serve with Senator BYRD, and I congratulate him on this great milestone.

Mr. CARDIN. Madam President, I wish to pay special tribute to Senator ROBERT C. BYRD. Today, Senator BYRD becomes the longest-serving Member in the illustrious history of the U.S. Congress. What an amazing accomplishment! He already holds the distinction as the longest-serving Senator, and is the only Senator in U.S. history elected to nine full terms.

Considering that Senator BYRD won his first election, to the West Virginia House of Delegates, in 1946, it may be that he is the longest-serving elected official in history—period.

When ROBERT BYRD was elected to the Senate in 1958 after serving in the House for 6 years, he was part of a large, distinguished class that included such future giants as Hugh Scott, Gene McCarthy, Edmund Muskie, and Philip Hart (D–MI). He has surpassed them all.

According to the Senate Historical Office, ROBERT BYRD was the 1,579th person to become a U.S. Senator. Since he was elected to the Senate, another 334 individuals have become U.S. Senators. All in all, ROBERT BYRD has served with over 400 other Senators. And I am certain that all of them have held their colleague, as I do, in the highest esteem.

Senator BYRD's modest beginnings in the hard-scrabble coal fields of Appalachia are well known. Suffice it to say that his life is the quintessential American success story.

I think every young American should learn about Senator BYRD's life as an example of what hard work and persistence and devotion can accomplish in this country.

Senator BYRD married his high-school sweetheart, Erma Ora James, shortly after they both graduated from Mark Twain High School in 1937. He was too poor to afford college right away and wouldn't receive his degree from Marshall University until 60 years later when he was 77. In between, he did something no other Member of Congress has ever done: he enrolled in law school at American University and in 10 years of part-time study while serving as a Member of Congress, he completed his law degree.

Senator BYRD was married to his beloved Erma for nearly 69 years, and has been blessed with two daughters, six grandchildren, and seven great-grandchildren.

During his Senate tenure, ROBERT BYRD has been elected to more leadership positions than any other Senator in history. He has cast 18,585 rollcall votes. Only 28 other Senators in the history of the Republic have cast more than 10,000 votes; Strom Thurmond is the only other Senator to cast more than 16,000 votes. Senator BYRD's attendance record over the past five decades just under 98 percent is as impressive as the sheer number of votes cast he has cast.

Senator BYRD's legislative accomplishments, from economic development and transportation to education and health care, are legendary. It is no surprise that he has won 100 percent of the vote of West Virginians in a previous election, 1976, or carried all 55 of West Virginia's counties.

In the meantime, he has written five books, including the definitive history of the U.S. Senate.

Perhaps the highest tribute to Senator BYRD can be found in his biographical section of the ''Almanac of American Politics,'' which states: ''Robert Byrd may come closest to the kind of senator the Founding Fathers had in mind than any other.'' His fealty to the U.S. Senate and to the Constitution has served as an inspiration, a lesson, and a guiding light to all of us who have been privileged to follow him in this chamber.

Robert E. Lee said, ''Duty is the most sublime word in our language. Do your duty in all things. You cannot do more. You should never wish to do less.'' Senator ROBERT C. BYRD has done his duty in all things—to himself, to his family, to his State, to his Nation, and to God.

I am honored to join his and my colleagues here in the Senate, West Virginians, and all Americans in paying tribute to this great Senator and this great man.

Mr. GREGG. Madam President, I rise today to recognize the longest-serving lawmaker in congressional history; I rise to recognize a leader; and I rise to recognize a friend.

Senator BYRD has served in Congress for over 56 years. His tenure has traversed 9 elections, 18,000 votes, 20,000 days, and 11 Presidents. I have had the privilege of serving with Senator BYRD on the Senate Appropriations Subcommittee on Homeland Security. I am proud of our efforts to protect Americans and make our Nation more secure, especially in the area of border security and addressing the threat of weapons of mass destruction. Senator BYRD was a terrific partner, and I valued his input. And when we would give introductory remarks at the committee markup of our bill, I have never received such generous compliments from another lawmaker. I hope Senator CONRAD, my counterpart on the Budget Committee, is taking notes.

More recently, it is a testament to his character and sense of duty that after battling illness and absence earlier this year, Senator BYRD returned to once again craft our Nation's homeland security budget: a $44 billion measure that funds natural disaster response, antiterrorism efforts, and other critical programs to meet and repel the various threats facing our homeland.

Lastly, I want to recognize Senator BYRD for his dedication to the Senate as an institution and his understanding of its inner workings. No one can better recite or describe Senate rules and parliamentary procedures or better defend them. His encyclopedic knowledge of the Senate, as well as the copy of the U.S. Constitution which he always carries in his jacket pocket, is something that we can all respect and appreciate. He is a man committed to the principles and laws that founded our great Nation, and for that we should be thankful.

In closing, we have much to thank Senator BYRD for: merit-based scholarships; teacher training programs; and the strengthening of American history curriculum in our schools. But one thing that many of us and our constituents might take for granted, Senator BYRD is responsible for the cameras in the Senate Chamber. As he often does, Senator BYRD put it eloquently when he said that proceedings should be televised to prevent the Senate from becoming the ''invisible branch'' of government. I couldn't agree more.

Before yielding the floor, let me be one of the first to wish our esteemed colleague an early Happy Birthday. He

turns 92 this Friday. Happy Birthday, friend.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I will be 30 seconds because I believe we are ready to adopt a resolution. It has been a long time since I was a young Senator listening to a man who was even then a giant of the Senate. For hours, Senator ROBERT C. BYRD would speak eloquently, and usually from memory, on the history and traditions of the Senate. Even then, it was clear to me there had been few combinations more fortuitous in the history of our Nation than that of ROBERT BYRD and the Senate.

We celebrate today as he becomes the longest serving Member in the history of the Congress. There have been many beneficiaries of that long service: the people of West Virginia, whom he has served so ably; the citizens of the United States, who have been fortunate to reap the rewards of his knowledge and commitment; and, more personally for us here, the Members of the Senate, and most personally, me.

His career is even more remarkable for its depth than for its length. In addition to more than half a century in this body, ROBERT BYRD managed to work as a butcher, a ship welder, and a Member of the House of Representatives. He learned to play the fiddle, became a recognized expert on Rome's senate, and wrote or edited nine books. It says much about him as a person that he was never out of place in the coal country of West Virginia, even as he moved to the highest levels of our government.

There is seldom any doubt where Senator BYRD stands on an issue, be it the decision to go to war in Iraq or a challenge to the prerogatives of the Senate. But in those instances where history or his own reflection have shown him to be mistaken, he has shown the rare grace to accept responsibility for his own imperfections, and ask for forgiveness. In this, as in many other things, he is truly an example to emulate.

He is rightfully honored not just for his knowledge of the Senate, but for a fierce determination to protect its traditions, procedures, and its role in our system of government. I have seen this determination up close, perhaps never so clearly as in 1996, when he and I, along with Senator Moynihan, filed an amicus brief with the U.S. Supreme Court on the subject of the line-item veto. Congress's approval of the law establishing this veto occurred over Senator BYRD's powerful and learned opposition, and after it became law, he continued to oppose what he saw, and I saw, as a clear violation of the constitutionally mandated separation of powers. In this instance and many others, the Senate and the Nation have benefitted from his immense knowledge of the Constitution and his ability to focus that knowledge on the issues before us. Before party or personal preference, ROBERT BYRD places the Constitution—a document always at hand in the Senator's pocket.

More than 3 years ago, Senator BYRD reached another milestone—becoming the longest serving Member of the Senate. Let me repeat something I said then: ''That is the tribute we can all pay to Robert Byrd: to defend this institution, to stand for its procedures, and to carry, as he does, at least in our hearts, the Constitution, as he carries the Constitution on his body.''

I conclude with congratulations not just to Senator BYRD and not just on the longevity of his service, but on the depth of its quality and the love he has for the Senate, his commitment to constitutional government. We remember this day also his love for his beloved wife Erma who was a blessing to Robert, a blessing to their family, and a blessing to our Senate family.

I yield the floor.

Mr. CASEY. Madam President, I would like to commend and congratulate my colleague Senator ROBERT BYRD on the momentous accomplishment of becoming the longest serving Member of Congress.

Senator BYRD has spent 56 years and 320 days serving the people of West Virginia, in that time casting more than 18,500 votes.

He is a fierce advocate for his home State of West Virginia, a mentor and disciplinarian with new Senators. And he possesses an encyclopedic knowledge of Senate history, rules, and procedure. The current President pro tempore of the Senate, he has held more leadership positions than anyone in Senate history.

I am honored to have worked alongside a man who will go down in history as a great American public servant, and I look forward to working with Senator BYRD for years to come.

Ms. STABENOW. Madam President, how lucky we are to have the great Senator from West Virginia—20,744 days spent in this ''sanctuary,'' this Senate Chamber, which I have heard him call, on more than one occasion, ''the very temple of constitutional liberty.''

Within just a few days of my arriving here in 2001, I was instructed in no uncertain terms to go and see Senator BYRD, to listen to him, and to learn from him. And so I went and I listened and I learned. I learned about the history of this great body. I learned about the importance of the rules and decorum of the Senate.

It is such an honor to be a Member of this body but also an awesome responsibility. For 20,744 days, Senator BYRD has been fighting for the people who sent him here, for the great men and women of West Virginia, and for all the people of this country.

He is an inspiration.

I was proud to be 1 of the 22 Senators who stood with him against the Iraq war. I was proud to stand with him on so many occasions to fight for the working men and women of this country—whether they be coal miners in West Virginia or autoworkers in Detroit. And I am proud to stand here today, with so many of my colleagues, to honor Senator BYRD's remarkable service.

Right outside my office, I proudly display a print of a painting made by the Senator from West Virginia, a very beautiful scene of West Virginia tranquility. Whenever I see it, which is every day, I am reminded of my colleague, of his extraordinary service, of his fierce dedication to liberty, and of his humble respect for the Constitution of our great country.

Madam President, I thank the Senator from West Virginia for his friendship, for his wisdom, and for his great service to our country.

Mr. KOHL. Madam President, today we honor Senator ROBERT C. BYRD for 20,744 days of service in the Congress of the United States. That feat of endurance is laudable, but certainly not surprising.

This is the man who has memorized volumes of poetry and analyzed libraries of great books, histories, legislation, and speeches. This is the man who attended law school at night while serving in the House of Representatives and then the Senate. This is the man who remembers every important date—Veterans Day, Mothers Day, the Fourth of July—with a carefully crafted, masterfully delivered oration on the Senate floor. This is the man who has held the most powerful positions in the Senate and has faced the most powerful adversaries on its floor and in Committee.

No one should be surprised, then, that this is the man who has served longest in the United States Congress.

But we are not just here to commemorate the days Senator BYRD has served. We are here to honor the service he has rendered.

Senator BYRD has served West Virginia. In those 20,744 days representing them, Senator BYRD has spent countless hours—in the Appropriations Committee, on the floor, in the offices of his colleagues—fighting for his people.

Senator BYRD has served the Senate. When I was first elected, Senator BYRD schooled me, as he has almost everyone in this body, in the nuances of Senate rules and traditions. He sat on the floor when I gave my first speech and made me understand the gravity and privilege of being a U.S. Senator. He has written the definitive, four-volume history of the Senate while earning himself a place in those pages alongside Senators Daniel Webster, Henry Clay, Robert Lafollette.

And Senator BYRD has served this country. He carries our Constitution next to his heart and wields it like a sword against those who put politics above principle. He has defended the Senate's constitutional powers in front of the Supreme Court, arguing passionately against the line item veto—and in front of the world, arguing for the Senate's proper role in issues of war and peace.

In years of working with Senator BYRD, I have had the honor of getting to know a true American patriot and call him friend. Senator BYRD has never let down the people of West Virginia and steadfastly upheld our beloved Constitution. He will forever be known not just as Congress's longest standing member but as its strongest standing member. I thank him—as he taught me, through you, Mr. President—for his friendship and his service to the Senate, to the Constitution, and to the United States of America.

Mr. DORGAN. Madam President, I would like to add my congratulations to Senator ROBERT C. BYRD on his historic achievement today. Not only is he the longest serving senator in the history of this body, but today he is the longest serving Member of Congress in the history of our Nation.

For more than 50 years, Senator BYRD has been a steadfast defender of the Constitution and the principles on which it stands. Senator BYRD is truly a statesman, a patriot, a proud son of West Virginia, and an important voice in the history of this country.

Senator BYRD has come a long way from the coal fields of West Virginia where he grew up in poverty and learned the value of hard work. He first came to Washington in January 1953—20,774 days ago—when he was elected to the U.S. House of Representatives. He served in the House for three terms before being elected to the Senate, where he has served the people of West Virginia faithfully for the last 50 years.

Over the years, Senator BYRD has never forgotten his roots and the State and the people that he loves. The people of West Virginia have recognized his achievements and hard work on their behalf in the Senate and have elected him for an unprecedented nine terms in the United States Senate. He has served with 11 Presidents. Can you believe that?

To add to his long list of achievements, Senator BYRD has also held more leadership positions than any other Senator in history. This includes Senate majority whip, chairman of the Democratic Conference, Senate minority leader, and Senate majority leader. Currently, Senator BYRD is the president pro tempore. Throughout his career, Senator BYRD has cast nearly 18,600 roll call votes in five decades of service in the Senate. I'd say that's an unprecedented record.

Senator BYRD is also the longest serving member of the esteemed Appropriations Committee. He has served as its chairman or ranking member since 1989 until stepping down earlier this year. It has been my honor to serve with him on the Appropriations Committee and I have learned a tremendous amount under his leadership.

Many of us know Senator BYRD as our resident historian. He has a wealth of knowledge about the procedures of the Senate and shares enthusiastic stories of the many interesting events that have occurred in this Chamber. He is also the author of a magisterial four-volume set about this body entitled ''The Senate, 1789–1989'', and other works.

He also had a unique talent outside the halls of Congress. Senator BYRD learned to play the fiddle at a young age and carried it with him everywhere he went. His skill with the instrument led to performances at the Kennedy Center and on a national television appearance on Hee Haw. He even recorded his own album, Mountain Fiddler.

No tribute to Senator BYRD would be complete without mentioning his life's love, Erma Ora James. For nearly 69 years, the Byrds were inseparable, traveling throughout their native West Virginia and crossing the globe together. Sadly, Mrs. Byrd passed away on March 25, 2006, but Senator BYRD speaks lovingly of her and their life together each day.

The times have changed considerably since Senator BYRD first came to Washington. We have seen a man walk on the Moon. We have mapped the human genome, and we have seen unbelievable technological advances that have changed the way we live, work and communicate. But through it all, the one constant is Senator BYRD's steadfast championing of our Constitution and the people of West Virginia.

Senator BYRD is to many the voice of the Senate, and it has been my privilege to serve with him and learn from his stories and wisdom. The Senate is a stronger institution and a better place because of the many years of service of Senator BYRD. I join my colleagues in offering my congratulations to him on this important day and wish him well as he celebrates his 92nd birthday later this week.

Mrs. FEINSTEIN. Madam President, I join my colleagues today in congratulating Senator Robert C. Byrd on reaching yet another milestone in a long and very distinguished career.

Today, Senator BYRD has served 20,774 days—that is 56 years and 10½ months in Congress—making him the longest serving Member in U.S. history.

Senator BYRD has attended 18,582 Senate rollcall votes.

He cast his first votes in the Senate, in January 1959, when Dwight Eisenhower was President. John F. Kennedy and Lyndon B. Johnson were among his Senate colleagues. And Hawaii was not yet a State.

He has served in the Senate longer than 10 of his current colleagues and President Obama have been alive—BOB CASEY, Jr., AMY KLOBUCHAR, BLANCHE LINCOLN, JOHN THUNE, DAVID VITTER, MARK PRYOR, MARK BEGICH, MICHAEL BENNET, KIRSTEN GILLIBRAND and GEORGE LEMIEUX.

He has been elected to the Senate an unprecedented nine times, and has served alongside 11 U.S. Presidents.

Senator BYRD has seen great changes in these past 56 years. Yet he has never lost sight of where he came from.

He grew up in poverty among the coalfields of Southern West Virginia.

His adoptive parents early on instilled in him a strong work ethic. He was a butcher, a gas station attendant, a grocery store clerk, and a shipyard welder before winning a seat to the West Virginia State Legislature and eventually being elected to Congress.

Senator BYRD earned a law degree from American University in 1963—the only person to have ever begun and completed law school while serving in Congress.

The ''Almanac of American Politics'' has said that Senator BYRD ''may come closer to the kind of senator the Founding Fathers had in mind than any other.''

I wholeheartedly agree. And so he has set the standard for all of us to follow.

We, of course, all know him as a great orator with a love of language. His speeches on this floor often quote poetry and the classics—Roman historian Titus Livius is a favorite.

Senator BYRD is a man of conviction. He always speaks his mind. He never minces words.

He is our fiercest defender of the U.S. Constitution—in fact, he carries a pocket version of this dynamic document wherever he goes.

There is no one who has loved this institution so dearly. He adores it so much he has authored four volumes about the history of the U.S. Senate.

In a speech he gave earlier this year when he marked 50 years in the U.S. Senate, Senator BYRD said: ''The Senate has served our country so well because great and courageous Senators have always been willing to stay the course and keep the faith. And the Senate will continue to do so as long as there are members who understand the Senate's constitutional role and who zealously guard its powers.''

He of course leads this list.

Yet Senator BYRD's highest priority has always been serving the constituents of his beloved Mountain State.

As a longtime chairman and member of the Senate Appropriations Committee he has sent home millions of dollars in needed Federal funds for economic renewal and infrastructure projects. These monies have gone to build highways, dams, educational and health institutions, and Federal agency offices throughout West Virginia.

He has long been a strong proponent of education. The valedictorian of his high school class, Senator BYRD has fought for teaching of ''traditional American history'' in the Nation's public school system. It is an issue true and dear to my heart as well.

Today, thanks to Senator BYRD, the Department of Education awards millions of dollars each year in grants to fund training programs to improve the skills of history teachers.

Senator BYRD's love of the Senate and of his fellow West Virginians knows no bounds. It is exceeded only by the love of his beloved wife Erma who passed away 3 years ago. In a statement this week marking his own

milestone, Senator BYRD said ''I know that she is looking down from the heavens, smiling at me and saying congratulations my dear Robert but don't let it go to your head.''

I have had the privilege of working on the Appropriations Committee while Senator BYRD was chairman. There has been no one who has been more faithful to the Constitution, to the goals and rules of the Senate, or has served this body more honorably.

I consider myself lucky to have served alongside this great statesman for 17 years.

Again, congratulations Senator BYRD. You are a true American Patriot.

Mr. SESSIONS. Madam President, I wish to make a few remarks about one of the most remarkable men ever to serve in the Senate, ROBERT C. BYRD on this milestone of service. When I came to the Senate, he was my teacher. We went to school to him. He told all of the new Members about the rules of the Senate and we all got copies of his book on the history of the Senate. We were all mightily impressed, because he had an encyclopedic understanding of this Senate.

I have heard him over the years refer to the Senate as the great Senate or the second great Senate, the Roman Senate being the first great Senate and the U.S. Senate being the next great Senate. The pride he has in this institution, the way he respects it and reveres it, I think is second to none who has ever served here. I believe that.

I remember one night—I don't know why it was so late, but it was sometime during the debate over Afghanistan or Iraq, and I was here speaking. It was 8 or 9 o'clock at night, later than this—and Senator BYRD was the Presiding Officer. I told this fabulous story somebody had shared with me. It was a history of Rome, and it was about what the Romans did when they had terrorists and pirates. When they could stand the disgrace no longer, the Romans all got together and said we have to take action, and they selected the leading man of the country and gave him a whole fleet of ships and I think 100,000 or more soldiers. They issued a directive to every city on the Mediterranean that they would cooperate with Rome, and they set about to destroy the pirates. The pirates had captured a Roman leader or two. They raided the coast of Rome, and the disgrace was intolerable and they finally got together and crushed them in short order.

I was the last one to speak, as I am tonight, and he asked me to come up to the Chair. He said, that was Marc Antony; ''I think that was 6 AD.'' So he is a real student of history and the Roman Empire and the Roman Senate.

I also would normally preside over the Senate on Fridays, and Senator BYRD at 11 o'clock would appear through the door almost every Friday and he would make a speech. They were remarkable speeches. He had a remarkable talent for speaking. He would quote poetry at length without a single note, or quote the Scripture without notes. I still can remember some of his speeches. One of my favorites was his discussion of the failure of modern textbooks.

One of the things that irked him—and he quoted from them—is that they didn't recognize the difference between a democracy and a republic, and there is a difference. He delineated that with great clarity. Finally, at the conclusion, he referred to those books as touchy feely twaddle, and I thought that was a phrase I liked. I have remembered it ever since.

He also discussed the little school he attended. My father attended one like that and my grandmother taught in one like that. But the highlight of their day was to be selected to be the one to take the bucket and go down to the spring and get a bucket of water to put in the barrel so the kids would have something to drink. They were taught well. He made clear that they were well taught. This was not poor education; it was a good education. But, that is the way the school was conducted. He noted they had a single dipper for the class and all the students used it to dip in the barrel to get the water whenever they needed it. I guess the EPA would have them in jail today if they were to try such a thing as that.

He has been and still remains a fierce advocate of issues he considers important. We did not agree on the Iraq war, and Senator BYRD was fierce in his opposition. He articulated it aggressively and fairly and in a tough, effective manner. He was one of the most effective Senators on that matter.

We agree on a number of issues involving immigration. I strongly believe that the immigration system in this country is broken and we need to create a lawful system and that we cannot tolerate the continued lawlessness, and he agreed. He doesn't believe people have a right to just walk into the country illegally and claim they are a citizen, then just wait a little bit and get amnesty.

What kind of law is that? On many of those votes, we shared a common view. I guess I will say he is a person who answers to his own sense of right and wrong. It is a deep sense of right and wrong. He is a man who understands the Scriptures, a man of deep personal faith and there are things he believes that are right and there are things he believes are wrong and he doesn't do what he thinks is wrong. It is the kind of model that I think is a good one for all of us in the Senate.

I find Senator BYRD to be one of the most refreshing and brilliant men I know in the Senate. I say this with some real confidence: Nobody loves the Senate more than ROBERT C. BYRD.

I thank the Chair and yield the floor.

Ms. MIKULSKI. Madam President, I rise today to pay tribute to my friend and colleague, Senator ROBERT C. BYRD from West Virginia. Today, Senator BYRD becomes the longest serving Member of the U.S. Senate, the longest serving Member of the U.S. Congress, and the longest serving Member in Congressional history. Today, Senator BYRD marks his 20,744th day in the Congress. This is an extraordinary milestone for a man who has played such an important role in the Senate.

Senator BYRD has a compelling personal story. He lost his parents as a young child and was raised by his aunt and uncle in a coal mining community. He became the first in his family to attend college and law school, working a series of jobs to support himself and his family. He was blessed with a wonderful wife, Erma Ora Byrd, who was beloved in the Senate family.

Senator BYRD never forgot where he came from. His work on behalf of the people of West Virginia is legendary. He never forgot the coal mining community he came from. He always worked to strengthen the opportunity ladder that he used to put himself through college and law school. He never forgot the people and communities that too often are left out and left behind.

When I first came to the U.S. Senate in 1987, Senator BYRD was the majority leader. He helped me get on some of the best committees, including the Appropriations Committee. Senator BYRD helped me learn the arcane Senate procedure. He helped me learn the ropes on the Appropriations Committee and how the appropriations process could be used to help communities and people in Maryland—and to create jobs.

As majority leader and as chairman, Senator BYRD set a tone of bipartisanship. He worked across the aisle to meet the day-to-day needs of his constituents and the long-range needs of our Nation.

I join my colleagues in celebrating Senator BYRD's many accomplishments—and in thanking him for his friendship.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, and the motions to reconsider be laid upon the table en bloc; further, that any statements with respect to Senator BYRD be printed in the RECORD.

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

The resolution (S. Res. 354) was agreed to.

The preamble was agreed to.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I know Senator BYRD is about to speak, but I sat here in this row for years with my dear friend from West Virginia. We have been friends for the 35 years I have served here. In his mind I am but a junior Member of the Senate, having been here only 35 years, but they have been especially good ones because he is here. I will save something for later on.

I yield the floor.

The PRESIDING OFFICER. The very distinguished Senator from West Virginia.

Mr. BYRD. I thank the Chair. Thank you, PAT. I thank Senator REID, my leader. I thank Senator MCCONNELL, and I thank my colleague and dear friend, Senator JAY ROCKEFELLER, and all Senators, everyone, for their good words and for this outstanding resolution.

Today, Madam President, is much more than a commemoration of the length of service of one Senator. Today also celebrates the great people of the great and mighty State of West Virginia who have honored me by repeatedly placing their faith in me. Because of those wonderful people in West Virginia, this foster son of an impoverished coal miner from the great hills of southern West Virginia has had the opportunity to walk with Kings, to meet with Prime Ministers, and to debate with Presidents.

I have had the privilege not only to witness, but also to participate in, the great panorama of history. From the apex of the Cold War to the collapse—the collapse—of the Soviet Union, from my opposition to the 1964 Civil Rights Act to my part in securing the funds for the building of the memorial to Martin Luther King, from my support for the war in Vietnam to my opposition to President George W. Bush's war with Iraq, I have served with so many fine Senators in the Congress, and I have loved every precious minute of it.

I recall those days a long time ago when I walked 3 miles down a hollow in the snow in order to catch a bus to attend a two-room school in Mercer County in southern West Virginia. In Stotesbury, WV, after school, I went from house to house collecting scraps of food. I was the scrap boy, collecting scraps of food to feed the hogs of my coal miner dad, raised in a pen beside a railroad track to support the family budget.

Little could I have ever imagined or dreamed while I was feeding those hogs or walking in the snow to catch a bus to school that one day under God's great mercy I would become the longest serving Member in the history—the great history—of the U.S. Congress. I am grateful, simply grateful to an Almighty God for having had an opportunity to serve my State of West Virginia and to serve our great Nation. My only regret is that my dear wife Erma is not here to enjoy this moment with me. But I know—yes, I do—that she is smiling down from heaven and reminding me not to get a big head.

Again, I thank all Senators. I thank all West Virginians. May the great God Almighty continue to bless these United States of America, and may he keep her forever free.

Madam President, I yield the floor.

(Applause, Senators rising.)

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AKAKA. 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. AKAKA. Mr. President, I rise to honor and extend my warmest aloha to my colleague, mentor and good friend—Senator ROBERT C. BYRD—for reaching this unprecedented milestone.

My colleague from West Virginia has held the most prestigious and influential positions in this legislative body.

Today he is the Senate President Pro Tempore, but we know him as the ''Dean of the Senate.''

We are so lucky to have him—as he continues to maintain the highest standards in Senate decorum and constitutional procedure.

Senator BYRD has served this country for nearly a quarter of its existence—56 years, 10 months, 16 days.

His dedicated service to his State and this country—and his unrivaled knowledge of parliamentary procedure—continues to be an inspiration to me, and many others in Congress and to people around the country.

Senator BYRD's inspiring story is rooted in his modest upbringing and steadfast determination to serve his country.

Growing up, his parents' taught him the value of hard work. He worked as a butcher and grocer, won election to the West Virginia Legislature, then to Congress.

His work ethic allowed him to earn a law degree from American University—while serving in the House.

But he is not all work. Senator BYRD and I share a love for music and the arts. He is an accomplished musician. His amazing fiddle playing was even showcased at the Grand Ole Opry.

He is a man of great faith. We have attended Senate Prayer Breakfast together for many years. His favorite hymn is ''Old Rugged Cross.'' I have enjoyed singing it with him a number of times.

He is a scholar in the history of democracy and our country. Senator BYRD often cites our founding fathers and Greek philosophers to remind us of where we have come from. He always carries a copy of the Constitution in his pocket.

When I was a freshman Senator in 1990, he generously helped me learn the ways of this great institution.

I still have the notes he gave me on how to preside—always insisting that we follow the proper, time-tested procedures—and that we give our full attention to the Senate floor.

His years of masterful legislation have become such a consistent force in this lawmaking body that he has his own procedural budget rule named after him: The Byrd Rule.

Senator BYRD is an embodiment of the democratic spirit.

We have looked to him for his steady leadership for so many years, and as our country faces new 21st century challenges, we are fortunate that we still have his wisdom today.

It is a pleasure to serve with him.

I again want to extend my aloha and my congratulations to Senator ROBERT C. BYRD for this amazing milestone. Thank you for what you do for this institution Senator BYRD. I look forward to the future together with you. God bless you, ROBERT BYRD.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am privileged to stand here to say a few words about my friend, ROBERT C. BYRD.

When I got here in 1976—I almost said 1776. But when I got here in 1976—some people think I have been here since 1776—ROBERT C. BYRD was the majority leader in the Senate. Actually, it was 1977 when I actually took my seat here. I have to say, he was one of the finest majority leaders I have seen in all of my 33 years in the Senate. There was literally nobody who knew the rules as well as ROBERT C. BYRD. Senator BYRD was an expert on the rules, and he taught me a great deal. In my first years in the Senate, we were on opposite sides in the labor and law reform debate, but it was a time of great learning for me as a young Senator, and he was very patient. He was very kind, very decent to two young Senators, Senator LUGAR and myself, who both came at exactly the same time. I will never forget that.

In the intervening years, I have seen this man play his fiddle and do it with such joy. I have seen him love his wife the way a man ought to love his wife. I have seen him be kind to his dog. I have seen him be kind to numerous people. I have seen him go out of his way for all of us, from time to time. Yet there was no more formidable Senator on the floor of this Senate than Senator BYRD.

As he has continuously, through the years, educated us on ancient history, modern history, the Constitution, anybody who has listened to those discussions and remarks on the floor has to acknowledge this is one very bright and intelligent man.

To think he got his law degree, if I am not mistaken, while he was serving as a U.S. Senator—and I know he hardly ever missed a vote. That he went on to law school and got a law degree while he was, at the same time, a sitting U.S. Senator is pretty remarkable to me. I don't know anybody else in this body who could have done that. It is an amazing thing.

He has gone out of his way in those years for those of us who were younger and didn't know an awful lot about the procedural rules, who didn't know a lot about the Senate. He has been a stickler for the rules and made sure the Senate has always respected them as now we, the Senators, respect him—not only for his knowledge of the rules but for the way he has conducted himself all these years.

I don't know of any other Senator who has done as much for his State as Senator BYRD—unless it was Senator

Stevens from Alaska. In the many years they were both on the Senate Appropriations Committee, they were towers of strength. I have been amazed at the strength, the endurance, the intelligence, and the absolute kindness and decency Senator BYRD has shown as he has evolved as a Senator from those early days when not many people knew him, to today when all of us are honoring him.

What an achievement, to be the longest-serving Member in the history of the Congress. This is a very important day to Senator BYRD and to all of us. I can truthfully say that I love and respect him. We have had our share of differences over the years, but they have always been cordial. I look forward to serving here in the Senate with Senator BYRD for many more years.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I say to my good friend from West Virginia, I spoke this morning on his remarkable record of achievement.

We are all proud of your service to your State and to our country. I sent you a note including my remarks from this morning about this remarkable record you have now achieved. Of course, you broke the record of a Senator from Arizona. One of his successors is here on the floor and would like to address that matter as well.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I prematurely congratulated Senator BYRD yesterday for breaking the record of Carl Hayden, who has up to now held the record and was in the House of Representatives the day Arizona became a State. He served all the way up until I believe 1968.

Senator BYRD reminded me: No, it is not until tomorrow, at whatever hour it was.

I said: Well, I think you will probably make it.

Of course, his response was: The Lord willing.

That has been a motto of Senator BYRD throughout his career: The Lord willing. We hope the Lord is willing for many more days so the record will be even harder to break.

We congratulate you.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DORGAN. Mr. President, at the request of the majority leader, I ask unanimous consent that the Senate recess subject to the call of the Chair.

There being no objection, the Senate, at 5:18 p.m., recessed subject to the call of the Chair and reassembled at 6:28 p.m. when called to order by the Presiding Officer (Ms. CANTWELL).

The PRESIDING OFFICER. The Senator from Kansas is recognized.

ORDER OF PROCEDURE

Mr. ROBERTS. Madam President, it is my understanding that I am going to be recognized for approximately 15 minutes, and I seek unanimous consent that Senator GRASSLEY follow me for 15 minutes, so we would take approximately 30 minutes of the Senate's time at this point. I think I should probably ask unanimous consent to proceed as in morning business.

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

HEALTH CARE REFORM

Mr. ROBERTS. Madam President, I come to the floor today to join my good friend from Iowa, Senator GRASSLEY, who is our ranking member on the Senate Finance Committee, to raise concerns about a too-little-discussed aspect of the health care bill the Senate will soon debate. While much of the health reform debate to date has focused on the health care side of the bill and the $500 billion in higher taxes, fees, and fines that will be required to pay for it, very little attention has been paid to how these taxes and fines will be implemented and administered and, most importantly, enforced. I think that is a very critical discussion. We need to have that discussion, and it is one the American people fully need to understand as this debate gets underway. This is important stuff.

Senator GRASSLEY has already sounded the alarm about how the Senate Finance Committee bill expands the size and reach of the Internal Revenue Service, the IRS, further into the lives of every American. But listen up: All the health care bills we have seen so far call for reforms to be carried out to a great extent by the Internal Revenue Service—that is right, the IRS, the Nation's tax collector.

This isn't CMS, the Department of Health and Human Services; this is the IRS. So the Nation's tax collector will be in charge of implementing, administering, and enforcing a significant portion of this bill.

Under the various bills, the IRS is given unprecedented authority to obtain information about your family's health care decisions. The IRS is authorized to collect new information—information that is unrelated to an individual or a family's tax liability—in order to carry out health care reform.

This information will be used to implement, administer, and enforce several controversial provisions. For example, the IRS—again, not the Department of Health and Human Services—is the government agency that will determine whether everyone has insurance and will assess a tax penalty on anyone without insurance. The IRS will have to collect additional information from individuals and families in order to make this determination. We don't know how this information will be collected or how it may be used.

The IRS would assess taxes on employers who do not provide affordable coverage for their employees. Since affordability would be determined on an individual's total income, an employer would have to collect income information from all of his or her employees. This will require employers to provide additional information about their employees to the IRS—information I am sure that an employer would just as soon not ask about. We don't know how an employer would use this information or how it would be protected.

In addition, the IRS will have to work with the new health care exchanges to verify whether an individual is eligible for a subsidy and will have to share information about taxpayers with those exchanges. However, we still don't know if the exchange will be a State agency or a private entity, so we don't know how the IRS will collect and safeguard taxpayer information.

Yet even as the health care bill creates new responsibilities for the IRS, consider that the IRS is having a lot of trouble doing its No. 1 job—tax administration—efficiently and effectively. Two reports were issued recently that I think raise questions about the IRS's ability to carry out its new responsibilities in this bill, let alone its original responsibilities.

Last week, the Government Accountability Office, or GAO, released its annual audit of the IRS's financial statements for 2008 and 2009.

In the report, the GAO found that while the IRS has made progress in addressing internal control deficiencies, the report also states that deficiencies remain with regard to the IRS's internal control over unpaid tax assessments and over information security. The report states that ''the serious challenges IRS faces as a result of these remaining deficiencies adversely affect the IRS's ability to . . . obtain current, complete, and accurate information it needs to make well-informed decisions.''

Then, on Monday, the Treasury Inspector General for Tax Administration found that because of the way the Making Work Pay credit—the credit created in this year's stimulus bill to provide workers with a one-time tax credit of up to $400—has been implemented and administered by the IRS, more than 15 million taxpayers may actually end up having to pay back some of their credit to the IRS.

Similar administrative problems with the home buyer tax credit have led to waste and abuse of taxpayer dollars.

The IG's audit of the IRS's administration of the credit found that the IRS may have allowed thousands of taxpayers to claim millions of dollars in credits to which they were not entitled to despite recommendations made a year ago by the IG that the IRS take steps to verify eligibility for the credit.

In its audit, the inspector general found that more than 19,000 taxpayers claimed $139.4 million in credits for homes they had not yet purchased but would allegedly purchase. In addition, over 70,000 taxpayers claimed more than $479 million in credits despite indications that they were not first-time home buyers. The IG also identified 582

taxpayers under 18 years of age who claimed almost $4 million worth of credits. By the way, the youngest taxpayers receiving the credit were 4 years old.

Mr. President, the problems the IRS has encountered in administering these credits and the issues raised by the GAO about the security of taxpayer information—I will repeat that: the security of taxpayer information, your taxes—raise serious questions about whether the IRS is up to the task of implementing and enforcing the far-reaching tax proposals that are called for in the health care bill.

Wait, there is more. We know the IRS will need additional funding and employees—employees with expertise and training—if they are to implement, administer, and enforce the dozen or so new tax provisions called for in the health care bill.

How much will that cost? That is a good question. Nobody knows. These costs are not included in estimates provided by either the Congressional Budget Office or the Joint Committee on Taxation.

The bill as passed by the Senate Finance Committee—I don't know what is in the bill that will be considered, just announced by my friends across the aisle. They are doing that behind closed doors. But the bill as passed by the Finance Committee doesn't include any funding for the IRS for any administrative or personnel costs associated with this bill. We will see if the leader's bill that will be announced sometime tomorrow, which is being talked about in the hallways, contains such estimates.

Estimates of a more narrow bill by an independent group found that the IRS administration alone would cost several billion dollars—never mind the costs for the Department of Health and Human Services or CMS or other new Federal offices that will be created. We can only assume the cost to administer and enforce the taxes, fees, and fines in this bill will be significantly higher.

Americans need to understand what health care reform means for their health care, but they also need to know what the IRS's significant and intrusive new role would be in implementing and enforcing such health care reform.

All the proposals we have seen so far expand the reach of the IRS even further into the lives of ordinary Americans, allowing them to collect more information than ever before about you and your health care choices in order to tax you based on those choices.

Do Americans want the IRS to collect even more information about them and their families than it already does? I don't think so. Do they want the IRS having access to information about their health care decisions? Again, I doubt it.

Furthermore, would the IRS be able to do the job? Will they get it right? Recent reports by the IRS's own IG and the GAO cast doubt on the agency's ability to effectively administer the wide-reaching provisions in the health care bill.

Americans should be very concerned about putting the IRS in charge of administering more than $500 billion in new taxes, fees, and fines in this bill and expanding its reach further into Americans' lives.

Americans should be concerned about this path that the Senate leadership and the White House is taking us down, placing this very complex health care bill in the hands of the IRS, especially when they have not provided the resources the IRS will need to get the job done—not to the funding.

Madam President, the bottom line is that Americans need to know, need to understand, and need to question whether they want the Internal Revenue Service more involved in their daily lives and their health care decisions. Under the proposals we have seen, that is the case.

Sit up, America, and take notice. I think if we took a poll or had yet another townhall meeting, most Americans would say no to any further IRS involvement in their lives and no to IRS intrusion into their health care.

I yield the floor. I see the distinguished ranking member of the committee, a distinguished Senator who has been an expert on the IRS and basically bringing reform almost on an individual basis to that agency.

I yield to Senator GRASSLEY.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank my friend, the Senator from Kansas, for his kind remarks. I am very happy to join him in sounding an alarm about the role of the Internal Revenue Service in America's health care choices.

The various health care bills being considered before Congress would task the IRS with administering several new and very controversial provisions. This would include things such as the individual mandate—or another way to say that is a government-run insurance mandate, a government-required insurance mandate. It would also affect the employer free rider penalty. The IRS would be involved with the premium subsidy for low-income individuals. It would be involved with the small business tax credit. The IRS would be involved in working with exchanges to verify income information, and it would be involved in figuring out how to calculate and collect several new fees, which are in fact excise taxes.

Senator ROBERTS has just explained some of this. Also, during debate in the Finance Committee—when the Senate Finance Committee bill was up in that committee, some people joked that CMS stands for ''it's a mess.'' The same could be said of the IRS. As many of us know all too well, the tax gap is a very serious problem. The hundreds of billions of dollars owed that the IRS isn't collecting suggests that the IRS isn't effective at executing its primary mission: the enforcement of our revenue laws.

The IRS is just now starting to increase its enforcement efforts, which had declined significantly after the restructuring of that agency a decade ago. But just like many other Federal agencies, it is facing a human resource crisis because more than 50 percent of its workforce is expected to retire in the near future. So it doesn't have the resources it needs to do its presently described job, never mind a whole new one, such as administering health care reform—or at least helping administer health care reform.

One independent report after another highlights IRS's enforcement problems. Senator ROBERTS mentioned the recent reports on the Making Work Pay credit, home buyer tax credit, and the IRS's financial statements. In addition to those, we have problems with the earned-income tax credit and the health coverage tax credit.

In February, the Treasury Inspector General for Tax Administration issued a report on fraud in the earned-income tax credit. Then today, the administration reports that waste of taxpayer dollars from improper payments has increased from $72 billion in 2008 to $98 billion in 2009. Over $12 billion—almost 12 percent—of the $98 billion in improper payments was because of the earned-income tax credit.

In another tax inspector general report from earlier this month on the health coverage tax credit, that inspector general reviewed a valid sample of individuals who claimed this credit on their 2006 Federal tax return. The tax inspector general found that 72 percent did not have the required documentation to get that credit. In addition, the inspector general states that the IRS does not effectively identify or prevent individuals from erroneously claiming the health credit on their Federal tax return.

The inspector general identified over 1,200 individuals who appeared to have wrongly claimed $1.8 million of these credits on their Federal tax returns. This report is particularly relative since the premium subsidy in the Finance Committee health reform bill is modeled after this credit.

The earned-income tax credit, the health coverage tax credit, and the making work pay tax credit are all examples of social welfare programs that presently are being administered by the Internal Revenue Service, and this despite the fact that we have a whole separate agency—the Department of Health and Human Services—that is supposed to be concerned with social welfare.

In a recent interview with tax analysts about current health reform proposals, a former IRS Assistant Commissioner had this to say about IRS' role in the health reform issue:

> These kinds of programs require social welfare expertise. IRS agents are not recruited or trained to do that. . . . The IRS record is mixed and sometimes abysmal with regard to effectively administering these kinds of programs.

I couldn't have said it better myself.

Aside from the costs and the problems with enforcing these types of credits, there are opportunity costs associated with requiring the IRS to administer programs outside its expertise. The Government Accountability Office and the tax inspector general issued reports discussing the IRS' poor performance in providing telephone customer service during the 2009 filing season because of stimulus legislation. That was passed in February of this year. The reports state that customer service declined significantly, despite the fact that collection employees were assigned to staff the phones.

So honest and diligent taxpayers do not get the help they need when they need it, and tax cheats and tax evaders increasingly get away with not paying their fair share, and the tax gap widens.

From a tax administration perspective, the provisions in the various health reform bills will create infinite new problems for the Internal Revenue Service. The Internal Revenue Service is likely to be tasked with implementing provisions for which it actually must go out and collect new data—data that is unrelated to the taxpayer's tax liability.

In addition to the provisions Senator ROBERTS highlighted, the Internal Revenue Service would have to develop new processes and procedures for insurance companies and employers to challenge and appeal the calculations of the high-cost premiums tax and the employer free rider excise tax, both new provisions in the Senate Finance Committee bill. Both these taxes are calculated by a third party, other than the IRS or the individual taxpayer. The IRS would have to develop a method for calculating the new excise taxes on medical devices and pharmaceuticals, also a new provision in that bill, the basis for which is unprecedented.

In light of these issues, I think it is fair to consider a couple questions.

Assuming that an individual mandate is constitutional, do we want the IRS checking up on whether everyone has health insurance?

Another question: Do we want to facilitate the dissemination of tax information to third parties, such as employers or an insurance exchange? We have always been very cautious about maintaining the privacy of individual tax returns.

Another question: Shouldn't we be providing more resources to the Department of Health and Human Services to ensure that it can receive and process the necessary data if this bill is going to be implemented instead of having the IRS do it?

My Democratic colleagues in the Congress and the administration have many ideas for new and complex ways to tax individuals and, of course, tax small businesses as well, to fund all sorts of new spending. It would seem wise to make sure the IRS can enforce the tax laws before being charged with administering new social programs created because of health reform.

I ask my colleagues on the other side of the aisle to consider these questions as we debate the health care reform bill over the next several weeks.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. CANTWELL. 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.

Ms. CANTWELL. Mr. President, as in executive session, I ask unanimous consent that on Thursday, November 19, at 2 p.m., all postcloture time be yielded back, except for 30 minutes, and that the time be equally divided and controlled by Senators LEAHY and SESSIONS or their designees; that at 2:30 p.m., the Senate proceed to vote on confirmation of the nomination of Judge Hamilton; that upon confirmation, the motion to reconsider be laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

Ms. CANTWELL. Mr. President, I ask unanimous consent that on Thursday, November 19, following the period of morning business, the Senate proceed to the consideration of Calendar No. 190, S. 1963, and that the bill be considered under the provisions of the order of November 17; further, that upon disposition of the Hamilton nomination and the Senate resuming legislative session, there be 2 minutes of debate prior to a vote in relation to the Coburn amendment, No. 2785; that upon the use of that time, the Senate proceed to vote in relation to the amendment; that upon disposition of the amendment, the Senate then proceed to passage as provided under the order of November 17.

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

MORNING BUSINESS

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

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

AMERICAN UNIVERSITY OF AFGHANISTAN

Mr. INOUYE. Mr. President, I rise today to apprise my colleagues of an impressive effort in Afghanistan. I recently had the opportunity to visit with our military troops and civilian personnel serving in Afghanistan. While I was there, I had the pleasure to meet Dr. Michael Smith, president of the American University of Afghanistan. I was embarrassed to admit that until meeting Dr. Smith, I had never heard of the university. Upon learning more about the university, I am encouraged to know that while bombs are bursting and bullets are flying, there is an ongoing and successful American mission to provide educational opportunities to the men and women of Afghanistan.

Today, the American University of Afghanistan has 450 students and will graduate their first undergraduate class next spring. The student body draws from every province and ethnic group in Afghanistan and is nineteen percent female and growing. While the majority of faculty members are American, 15 other countries are represented, including Afghanistan.

The university models itself after other strong international American universities like the American University of Cairo and the American University of Beirut. Its programs focus on business and entrepreneurship, information technology, and many other professional areas.

Since over 85 percent of the student body have been immigrants at some point in their lives and 29 percent of the students graduated high school in Pakistan, one goal of creating this university is to enable Afghanis the educational opportunity to earn a degree that can be utilized for the betterment of Afghanistan.

I know many of my colleagues have plans to travel to Afghanistan to visit with our troops. I would encourage all of you to take some time to learn about this university which is one of the unsung efforts we have undertaken in Afghanistan.

I urge my colleagues to support this mission so when the military departs Afghanistan we can leave with a smile and our heads held high knowing that we have not only supported the security and stabilization of Afghanistan but have provided a sustained educational mission as well.

FINANCIAL REGULATORY REFORM AND DERIVATIVES

Mr. GREGG. Mr. President, the journalist H.L. Mencken once observed that, ''complex problems have simple, easy to understand, wrong answers.'' And, though modern history has amply demonstrated the resistance of complex political and economic systems to the easy answer of centralized control, we try time and again to apply top-down solutions to our multifaceted problems. This conflict is brought into no sharper light than by Congress' current efforts at financial services reform; particularly those directed at the labyrinthine world of the multi-trillion dollar derivatives trade.

Derivatives are a vital and complex component of modern financial markets, making it imperative that reform be done right—without damage to the

twin pillars of innovation and capital formation.

The question as to how derivatives should be regulated is not easy to answer, but Congress should start with some guiding principles. First, derivatives regulation should seek to foster a robust, competitive, and liquid marketplace. Second, systemic counterparty risk exposure must be reduced by incentivizing central clearing and increasing reporting requirements to promote transparency. Third, regulation must preserve the ability to engage in bilateral customized transactions for risk management. Finally, we must coordinate our efforts with the international community to prevent global regulatory arbitrage and the flight of capital to less regulated jurisdictions.

Unfortunately, the regulatory reform proposals making their way through both chambers of Congress fail to take into account the intricacies of this dynamic financial product and expose a fundamental misunderstanding of the way in which the marketplace works. Congress must think through the significant, unintended consequences before we act to mandate that all Over-the-Counter—OTC—derivatives be centrally cleared and executed on exchanges or cash collateralized, as well as subjecting end-users to capital charges. By de-incentivizing companies to use these risk management tools, such proposals will have the perverse effect of increasing business risk and raising costs.

The proposals advocated for by the U.S. Treasury and Chairman of the Senate Banking Committee, Senator CHRISTOPHER DODD, seem to provide too many government mandates and not enough flexibility. The proposed regulatory structure for OTC derivatives is built on an inadequate foundation lacking the staff, expertise, technology, and resources needed to provide truly robust oversight. Clearing and exchange-trading requirements do not accommodate the need for customized transactions. Capital and margin requirements threaten to lock up liquidity. Lack of international coordination guarantees a flight of capital away from our shores.

Derivatives may not be part of the Main Street vernacular, they may be unfamiliar to the local car dealership, but the manufacturers that supply those dealerships know them well. Derivatives provide businesses with access to lower cost capital, enabling them to grow, invest, and retain and create new jobs. With the unemployment rate at 10.2 percent nationally, this is no time to increase uncertainty and business costs.

Congress must be mindful of the mobility of capital in the global marketplace as well. Without a proper regulatory balance, capital can and will accept higher risk for less onerous regulation. We must maintain incentives for business to participate in a large and liquid OTC derivative market, while promoting global coordination to minimize regulatory arbitrage and systemic risk.

Under current proposals, capital requirements that will be imposed on OTC dealers will pass on additional cost to end-users. Coupling these capital costs with a decreasing ability to customize transactions could result in sharply lower usage by end-users. Given that 94 percent of Fortune 500 companies utilize customized OTC derivatives to manage macro-economic risk, providing less certainty to corporate balance sheets will severely undermine confidence in the American marketplace.

Further, the proposal to mandate exchange trading makes little sense in the bespoke OTC derivatives market. The basic assumption of exchange trading reflects the use of standard products. OTC derivates by their very nature are not always standard. In the real world, mandating use of an exchange would inhibit the use of such customized derivates that are useful financial management tools to hedge extremely specific risks. Bespoke derivatives cannot always be substituted with exchange traded or standardized OTC products. Even attempting to craft a carve-out for such derivatives raises the concern of whether the U.S. Securities and Exchange Commission and Commodities Future Trading Commission could agree on what should be traded.

Another red flag raised by the circulating proposals is the unintended consequence of segregating variation margin. The more capital a dealer has to set aside to purchase an asset, the fewer assets it can purchase. Heightened capital requirements restrict a dealer's ability to generate returns on its capital or provide loans to Main Street businesses, students heading to college, or families seeking a mortgage. It also does not protect end users or reduce systemic risk in any demonstrable way.

Corporate scandal and economic failure have provided such a regulatory catalyst many times in the past. It is alarmingly reminiscent of 2002, when Congress enacted Sarbanes-Oxley; introducing a host of new compliance requirements for accounting, corporate governance, and financial disclosure. But, in the years since the legislation took effect, the overhaul has come to be widely regarded as overly complex, unduly burdensome, and a severe disadvantage to American businesses in the global marketplace.

Congress should be instructed by the lessons of the past and not add such regulations that will impede capital formation. The simple, easy, but ultimately wrong answer is to issue a government mandate for every perceived problem. Thinking through the unintended consequences of overregulation and trusting market solutions is more difficult, but it is ultimately the only way to preserve the innovation that powers American markets.

HONORING OUR ARMED FORCES

STAFF SERGEANT JUSTIN M. DECROW

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of SSG Justin M. Decrow. He was a member of the 16th Signal Company, 62nd Expeditionary Signal Battalion. Justin was only 32 years old when he was killed in the tragic November 5 shooting spree at Fort Hood, TX, that took the lives of 13 Americans and left 31 others wounded.

Those who enlist in our Armed Forces make an extraordinary sacrifice, agreeing to routinely face life-threatening dangers abroad as they carry out missions on our behalf. The risks they endure to protect our freedom are never expected to follow them from the theater of war to the safety of American soil, making Justin's death all the more painful and troubling.

Today, I join Justin's family and friends in mourning his untimely death. Justin will be remembered as a loving husband, father, son and friend to many. He is survived by his wife Marikay; his daugther Kylah; and his parents Rhonda Thompson and Daniel Decrow. Justin had returned over the summer from a year's deployment in South Korea before being stationed at Fort Hood.

A native of Plymouth, IN, Justin enlisted in the Army immediately after graduating from high school. At the time of his passing, he was a resident of Evans, GA, where he lived with his high school sweetheart and 13-year-old daughter in a house he built just a few years ago. Justin was planning to become an Army contractor at nearby Fort Gordon, working within his specialty of satellite communications training. At Ford Hood, he had been training soldiers to help new veterans with paperwork. Justin is remembered by family and friends as a very loving man, who enjoyed working with his hands.

While we struggle to express our sorrow over the loss of Justin, we can take pride in the example he set as a soldier, a husband, a father, and a son. Today and always, he will be remembered by family, friends and fellow Hoosiers as a true American hero, and we cherish the legacy of his service and his life.

It is my sad duty to enter the name of Justin M. Decrow in the RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace.

I pray that the Decrow family, and the families of all the victims of this incomprehensible act, can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

MILITARY AND VA APPROPRIATIONS

Mr. BOND. Mr. President, in this ever-difficult era of economic recession

and troops engaged overseas, I am proud to introduce this amendment with Senators UDALL of New Mexico and BINGAMAN which addresses a dual front plaguing our country's war heroes. That dual front emerges from two troubles that exist for our veterans dealing with the horrors of war abroad and lack of affordable housing at home.

This sad duality has a dark and tragic reality. To date, one out of every three homeless men sleeping somewhere in our cities and communities is a veteran. Veterans make up a significant and disproportionate amount—over 20 percent—of our country's homeless population. The number of homeless Vietnam-era veterans is greater than the number of service persons who died during that war. Regrettably, this dark shadow cast behind our Nation's veterans is stretching because we are seeing homelessness spread to veterans returning from the ongoing conflicts in Iraq and Afghanistan. Instead of receiving the services and benefits they deserve, veterans from Iraq and Afghanistan—as well as many American families—are at greater risk of homelessness due to a number of factors, such as the economic downturn, the acute shortage of affordable housing, and lingering mental health illnesses. Further, despite the efforts of the federal government and its partners at the State and local levels and their progress in addressing homelessness, there remain too many gaps in our safety net system to prevent homelessness.

For our troops and their families to whom we owe so much, who make great contributions to defend our country, and who risk their lives; is homelessness an acceptable outcome for them? Clearly, the answer is no. That is why I am proud to support this amendment with my colleagues from New Mexico and I value the work I have been a part of with my other colleagues and friends like Senators MURRAY, MIKULSKI, REED, and HUTCHISON.

This amendment sends a clear and strong message that we cannot allow our veterans to return to their communities without providing them the support they need. This is why we introduced this amendment which combines the necessary support and housing services to help our veterans. Veterans need a comprehensive approach that begins with secure and stable housing in order to provide them the opportunity to reintegrate into society and support their families. Our amendment fully funds the Homeless Grant and Per Diem Program, which is administered by the U.S. Department of Veterans Affairs and promotes the development of supportive housing and services with the goals of helping homeless veterans achieve residential stability, increase their skill levels and income and develop greater self-determination. In closing, I thank my colleagues from New Mexico and the managers of the Military Construction and Veterans Affairs appropriations bill for their support. I sincerely believe that the passage of this amendment will be another example of our shining and unwavering commitment to our veterans.

PRESIDENTIAL CAMPAIGN

Mr. BURRIS. Mr. President, in the last century, Dr. Martin Luther King, Jr., spoke often of ''the arc of the moral universe'' and how it bends toward justice. He held an optimistic but unvarnished view of our country and saw that America's greatness lives in the promise of expanding equality and opportunity.

Sadly, for parts of our history, the halls of civil discourse were closed to people of color, women, and other groups. Too many Americans were denied the freedom that our founding documents guaranteed to every individual, and for far too long. But here in the United States, it is inevitable that justice wins out over tyranny in the end.

Thanks to the leadership of Dr. King and countless other trailblazers—of all races, backgrounds, and walks of life—today's America is more free, more fair, and more equal than our forefathers could possibly have dreamed. And today, I come to the floor in honor of one of these real-life trailblazers.

Twenty-five years ago, it was almost inconceivable that a person of color could become President of the United States. But that did not stop the Reverend Jesse L. Jackson, Sr., from mounting a serious campaign. Some applauded the effort, and some decried it as foolishness. Some said that America was not ready. But Reverend Jackson was undeterred. He laid righteous claim to the values that define us as Americans, and he shared his vision with all those who would listen and some who would not. And under his leadership, an otherwise ordinary Presidential campaign became a movement. People across America were inspired by what they saw, what they heard, and what they read. They turned out in droves to campaign for Reverend Jackson, to hear him speak, and to offer their support.

Twenty-five years ago, Rev. Jesse Jackson decided to run for President. And his bold campaign changed American politics forever. As Dr. King would say, he and his supporters put their hands on the arc of the moral universe and caused it to bend just a bit further. He broke down barriers, he shattered prejudice, and he paved the way for all who came after. He left an indelible mark on the political and social landscape in this Nation and his contributions will be felt for many years to come.

In 2008, thanks to the leadership and vision of Jesse Jackson, Martin Luther King, Jr., and countless others, America did what was once unthinkable: we elected an African-American man named Barack Obama to the highest office in our land. It was a day I never thought I would be fortunate enough to see. But it showed the world once again that this is a nation of high ideals and higher aspirations. It proved the enduring truth of the American dream and reinforced the true character of our great country.

This Nation owes a great deal to Reverend Jackson and many like him, who continue to share their talent, their vision, and their abiding faith with the American people. So today, 25 years after his historic run for President, I rise to thank Jesse Jackson for all that he has done and for all that he continues to do. And even as we honor his accomplishments, we know that we can look to the future with optimism, secure in the certain knowledge that we are in control of our destiny.

We, the American people, have the power to determine the course of this Nation, as Reverend Jackson reminded us a quarter of a century ago. That is the legacy to which he belongs—a legacy of equality and opportunity, which he has left to each of us.

Let us honor that legacy and carry it forward, so future generations can share in the ever-expanding promise of the American dream.

CONGRESSIONAL AWARDS PROGRAM

Mr. ENZI. Mr. President, I am very pleased to have this opportunity to acknowledge one of our great success stories—the Congressional Awards—on the occasion of their 30th anniversary. This is a great milestone in the history of a program that has served to inspire and encourage countless young people across the country since it was first signed into law in 1979.

Thirty years ago, Senator Malcolm Wallop of Wyoming and Congressman James Howard of New Jersey joined forces to establish and promote the Congressional Awards and provide this great opportunity to young people all across the Nation. Today this program is achieving results throughout the United States far beyond what anyone could have ever expected. One by one, students are rolling up their sleeves and getting to work, establishing personal goals as well as goals for community service. Their dedication has made it possible for them to make a great difference in the world right where it should always start—in their own backyard.

The Congressional Awards program has deep Wyoming roots because Malcolm Wallop helped to provide the leadership that led to its creation. It has deep roots in Wyoming because it has inspired our young people to a truly remarkable degree. The popularity of this program extends from one corner of my home State to the other and it continues to spark the imagination and encourage the enthusiastic participation of another group of participants every year.

Because of the great work this program makes possible, I try to attend as many award ceremonies as I possibly

can. I enjoy having the opportunity to recognize the achievements of those who have earned these awards almost as much as the award winners enjoy receiving the recognition of the Congress for their efforts. Every time I take part in one of these special ceremonies, I can see the excitement and sense of satisfaction that the award represents to each recipient because they have earned it by accomplishing what they set out to do.

The Congressional Awards are open and available to young people from about age 14 to 23. They honor those who have done something to improve themselves by expanding their horizons as to what they believe is possible for them to achieve. Working with adult mentors, they dedicate themselves to achieving a set of goals in four areas—public service, personal development, physical fitness, and the exploration of the world around them. Because of their enthusiasm, it is no surprise that they have been able to achieve such great results in their lives.

There are three levels of awards offered by the program—Bronze, Silver and Gold. The Gold Award is the most difficult of the three to earn because it requires the most in terms of both time and effort.

Over the years, the number of Wyoming Congressional Award winners at each level has been impressive. However, because of the good example Malcolm Wallop worked so hard to provide, we have had a remarkable number of Gold Medal award winners in my State. That is a remarkable achievement for a State with a comparatively small population. It underscores the determination of Wyoming's young people to always finish what they set out to do.

That is why our award winners have been getting noticed and the word has been getting around about how much it means to each award winner to have earned such a special prize. That has inspired others to try to do the same and it has kept the line of program participants going strong.

Malcolm Wallop understood the importance of that message and the need for our young people to hear it—and hear it clearly. Thanks to him and his efforts, kids in Wyoming and throughout the nation understand that there is something better for them to do than to complain about what's wrong with the world. They now know that if there is a problem in the community or down the street you can do something about it. It's more than positive thinking; it's a call to action. It's a lesson learned that will then encourage our young people to apply the same determination that helped them to earn their Congressional Award to the other goals they have set for themselves so they can achieve the same kind of success in every area of their lives.

Although Malcolm accomplished a great deal during his three terms of service in the United States Senate, I have always believed the Congressional Awards had to be one of his favorite achievements, something special that will continue to last as part of his Senate legacy that will serve to inspire present and future generations to continue to work to make great changes in the world around them.

That will mean, in the years to come, when we look to the young people of Wyoming, the West and the United States to take their place as our leaders on the local, State and national level, thanks in part to the experience of the Congressional Awards program, they will be ready.

KOREA-U.S. FREE TRADE AGREEMENT

Mr. ISAKSON. Mr. President, I wish to express my strong support for the Korea-United States Free Trade Agreement. As you know, President Obama is in South Korea today and tomorrow meeting with South Korean President Lee Myung-bak, and I would like to take this opportunity to communicate to the President and his administration the importance of expressing support for the Korea-United States Free Trade Agreement during these meetings.

The United States and the Republic of Korea have a long history of trade. According to the Office of the U.S. Trade Representative, U.S. goods and services traded with Korea totaled $101 billion in 2007. The Republic of Korea is the seventh-largest trading partner of the United States. In my home State of Georgia alone, goods and services exported to the Republic of Korea total more than $390 million, making the Republic of Korea Georgia's 12th largest trading partner. Furthermore, trade with the Republic of Korea accounted for more than $3 billion worth of goods passing through the Port of Savannah, GA.

It is imperative that the United States build on this already strong relationship with the Republic of Korea by approving a Korea-United States Free Trade Agreement. Approving a Korea-United States Free Trade Agreement will enhance both economies by growing markets for both U.S. and Korean goods and services, creating jobs in both countries, and will strengthen an already strong relationship with one of the most important allies of the United States in the East Asian region.

I would also like to take this opportunity to highlight a new KIA automobile production facility in West Point, GA. This is a direct investment from the Republic of Korea that is having a positive impact on my State's economy. This week, the first KIA Sorrento vehicles were completed at the West Point facility, where 1,200 jobs have already been created and an estimated 1,300 additional jobs will be created in the coming years. The impact on the local economy by the West Point facility is estimated to be around $6.5 billion over the next 3 years, which is already having a transformative effect on a community that was facing very hard economic times before the KIA facility came along.

Mr. President, in closing, I would just like to emphasize how important the Korea-United States Free Trade Agreement is to the United States, and in particular to my home State of Georgia. The KIA facility in West Point, GA, is just one example of the impact that this proposed free-trade agreement could have on other communities across the United States. During these difficult economic times, it is critical that the administration and Congress look for ways to build the economy and create jobs, and approving the Korea-United States Free Trade Agreement would do just that.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. JAMES R. HOUSTON

• Mr. COCHRAN. Mr. President, Dr. James R. Houston of the U.S. Army Corps of Engineers will soon retire with over 38 years of service. He is a member of the Senior Executive Service, SES, and is the First Director of the Corps' Engineer Research and Development Center, ERDC. His accomplishments and dedication to the Corps of Engineers' laboratory community and the Army are exceptional and will have a significant and long-lasting positive impact on this Nation.

After serving as a private in the U.S. Army Corps of Engineers, Dr. Houston began his Army civilian career as a physicist studying explosion-generated wave effects at the U.S. Army Engineer Waterways Experiment Station, WES, in Vicksburg, MS. At WES he calculated harbor oscillations and devised a numerical model to determine the inundation limits of tsunamis in the Hawaiian Islands. In 1978, he earned his Ph.D. from the University of Florida and in 1981 received an Army R&D Achievement Award for improved methods for numerically simulating tsunami propagation and interaction with nearshore regions. In 1983 he was promoted to chief of the research division in the Coastal Engineering Research Center where he researched numerical modeling of coastal processes and tsunami flood level predictions.

In 1986 he became the SES director of the Coastal Engineering Research Center, CERC, and with the combining of CERC and the Hydraulics Laboratory in 1997, he became the director of the Coastal and Hydraulics Laboratory, CHL. In these assignments, he oversaw research programs in coastal and hydraulic engineering, oceanography, coastal geology, dredging, and numerical modeling of hydrodynamics and sediment transport. Under his leadership, CHL became the largest coastal and hydraulics engineering laboratory in the world.

In 2000 he became the first director of ERDC and in 2006 became dual-hatted

as the Director of Research and Development and Chief Scientist of the U.S. Army Corps of Engineers. In that latter capacity he advised the Commanding General of the Corps on matters of science and technology and developed research and development policy for the Corps.

The ERDC research that he led has made an enormous difference in the global war on terrorism, GWOT. He led ERDC to be the 2002 Army Research and Development Organization of the Year in recognition of successful modeling of the physics of blast/structure interaction and development of structural-hardening technology for retrofitting buildings to withstand terrorist attacks. The Pentagon wedge that was hit on September 11 had just been structurally hardened using this technology, and ERDC's technology was credited with saving hundreds of lives on that tragic day. As a result of his support of GWOT, the Secretary of the Army awarded him the Decoration for Exceptional Civilian Service, and the U.S. Army Engineer Regiment awarded him both its Bronze and Silver deFleury medals.

Under his leadership, ERDC won the Army Research and Development Organization of the Year five times: 2002, 2005, 2007, 2008, and 2009. This is an unprecedented performance accomplishment in the history of the Army's laboratory of the year competition.

Dr. Houston led countless water resources research efforts such as that for the Los Angeles County flood-control project that produced savings of over $200 million. In 2004, the ERDC won the prestigious White House Closing-the-Circle Award for research on environmental stewardship. Under his leadership, the ERDC developed integrated biological, chemical, and ecological control technologies to combat nonindigenous aquatic plants, resulting in annual savings of $50 million.

Dr. Houston has been a champion for outreach programs to foster a diverse workforce and supported educational outreach activities in civil engineering, environmental quality, and computer science. He provided research experience for college students from Historically Black Colleges and Universities/Minority Institutions, HBCU/MI. During his tenure ERDC annually led the Army in meeting its HBCU/MI contracting goal.

He has published over 130 technical reports and papers, and he has received numerous honors and awards including Phi Beta Kappa; Phi Kappa Phi; SES Distinguished Presidential Rank Award; two SES Meritorious Presidential Rank Awards; Army R&D Achievement Award; Army Decoration for Exceptional Civilian Service; Army Commendation Medal; two Army Meritorious Civilian Service Awards; Silver Order of de Fleury Medal; Bronze Order of de Fleury Medal; Eminent Speaker for 1993 from the Institution of Engineers, Australia; 1997 National Beach Advocacy Award; and the 2003 Morrough P. O'Brien Award from the American Shore and Beach Preservation Association.

Dr. Houston's career with the Corps of Engineers has been marked with unprecedented accomplishments and is a superb legacy. His exceptional leadership qualities and technical eminence are in the best tradition of the Corps. He is a consummate professional whose performance in over 38 years of service has personified those traits of competency and integrity that our Nation has come to expect of its senior civilian leaders. We wish him and his family all the best.●

RECOGNIZING GOODRICH AEROSTRUCTURES

● Mr. SESSIONS. Mr. President, I ask my colleagues to join me in congratulating the Goodrich Aerostructures Original Equipment Manufacturer and the Alabama Service Center in Foley, AL, on their 25th anniversary. Goodrich Aerostructures became part of the Baldwin County community in 1984, originally as Rohr Industries. Twenty-two years later, Goodrich expanded significantly, and since 2005 Goodrich Aerostructures has been the second largest employer in Foley with approximately 800 people manufacturing, assembling, repairing, and servicing aircraft engine components and structures for military and commercial airplanes.

Since its inception, Goodrich Aerostructures has received numerous awards and recognition for continually providing excellent service and outstanding products. For the past 8 consecutive years, employees at Goodrich in Foley have been recognized by the Federal Aviation Administration with Aviation Maintenance Technician awards. In addition, Goodrich Aerostructures in Foley recently reached a significant milestone by delivering its 500th CF34–10 nacelle, and the company is on contract to supply the pylons and nacelle systems for the Air Force's C–5 Galaxy strategic airlifter as part of the Reliability Enhancement and Re-Engining Program to modernize the Air Force airlift fleet and improve support for our military personnel around the world.

The men and women of Goodrich have also been recognized as good corporate citizens and civic leaders in Baldwin County. The United Way of Baldwin County recognized Goodrich as the top contributing industry in the county earlier this year, and Goodrich workers actively support education, arts, and civic activities in the local community, including support for the Foley Public Library, the Center for Autism for Baldwin County, and the Baldwin County Council on Aging, and sending care packages to employees' friends and family members that are serving our country in Iraq and Afghanistan.

On behalf of my Senate colleagues and the State of Alabama, I thank the men and women of Goodrich Aerostructures in Foley.●

RECOGNIZING RICKER HILL ORCHARDS

● Ms. SNOWE. Mr. President, as we prepare to celebrate Thanksgiving next week, we should be mindful of the thousands of Americans who make possible the celebration as we know it today. Farmers of all kinds grow and harvest the sweet potatoes, turkeys, and cranberries that we enjoy on our dinner tables every fourth Thursday in November. In recognition of one such business, I rise today to honor a small family farm that has been harvesting delicious fruits in western Maine for over two centuries.

Located in the scenic town of Turner in Maine's foothills, Ricker Hill Orchards primarily grows apples of all varieties, most notably the McIntosh, a tradition the Ricker family started in 1803. The small family-owned farm, now in its ninth generation, has expanded over the years to grow other fruits, including pears and peaches, as well as other items like North American ginseng. Of course with apples comes cider, and Ricker Hill presses its own cider on the premises. Similarly, the company sells numerous apple-related products at its county store, such as apple cider donuts—a fall treat in Maine—pies, turnovers, dumplings, and other sweets. For those without the good fortune of visiting Maine during the crisp fall months, Ricker Hill has an online store where customers can order sweet cortland and gala apples, refreshing cider, and other unique gifts.

Additionally, during the early fall months, Ricker Hill adds cranberries—one of only three commercially grown fruits that are native to America—to its repertoire. The orchard dry harvests its small bright berries, as opposed to employing wet harvesting, allowing Ricker Hill to sell fresh berries at market that last longer. To produce the fruit, Ricker Hill must irrigate the bogs starting in the spring, while maintaining and repairing existing fields, and building new ones, throughout the summer. Finally, the company harvests the cranberries in early fall, using a small lawnmower-like instrument to collect the fruit.

To entertain the whole family, Ricker Hill has taken great strides towards making a visit to their farm a day-long event. Complete with a corn maze, hay barn, obstacle course, and cider making tour, the company packs a plethora of activities into its Farm Fun Day Pass. Ricker Hill also offers tours to school groups of the farm's apple picking and packing operations. And something one would not expect at a farm, Ricker Hill even has a challenging disc golf course that winds through the farm's acres of bogs and woods.

Ricker Hill Orchards excels at providing visitors with a quintessential

Maine fall experience. And for over 200 years, the farm has been producing some of New England's freshest and most delectable fruits, a practice that has helped the company garner a matchless reputation. As Thanksgiving approaches, and families across the country sit down to plates of cranberry sauce and apple pie, I wish everyone at Ricker Hill Orchards many more years of successful harvests of the ingredients that make this holiday so special.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, 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 SIGNED

At 9:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 748. An act to redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the ''Cesar E. Chavez Post Office''.

S. 1211. An act to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the ''Jack F. Kemp Post Office Building''.

S. 1314. An act to designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the ''Dr. Martin Luther King, Jr. Post Office''.

S. 1825. An act to extend the authority for relocation expenses tests programs for Federal employees, and for other purposes.

H.R. 955. An act to designate the facility of the United States Postal Service located at 10355 Northeast Valley Road on Rollingbay, Washington, as the ''John 'Bud' Hawk Post Office''.

H.R. 1516. An act to designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the ''Sergeant Marcus Mathes Post Office''.

H.R. 1713. An act to name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley ''Wes'' Watkins.

H.R. 2004. An act to designate the facility of the United States Postal Service located at 4282 Beach Street in Akron, Michigan, as the ''Akron Veterans Memorial Post Office''.

H.R. 2215. An act to designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the ''John J. Shivnen Post Office Building''.

H.R. 2760. An act to designate the facility of the United States Postal Service located at 1615 North Wilcox Avenue in Los Angeles, California, as the ''Johnny Grant Hollywood Post Office Building''.

H.R. 2972. An act to designate the facility of the United States Postal Service located at 115 West Edward Street in Erath, Louisiana, as the ''Conrad DeRouen, Jr. Post Office''.

H.R. 3119. An act to designate the facility of the United States Postal Service located at 867 Stockton Street in San Francisco, California, as the ''Lim Poon Lee Post Office''.

H.R. 3386. An act to designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the ''Iraq and Afghanistan Veterans Memorial Post Office''.

H.R. 3547. An act to designate the facility of the United States Postal Service located at 936 South 250 East in Provo, Utah, as the ''Rex E. Lee Post Office Building''.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 10:35 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3305. An act to designate the Federal building and United States courthouse located at 224 South Boulder Avenue in Tulsa, Oklahoma, as the ''H. Dale Cook Federal Building and United States Courthouse''.

H.R. 3360. An act to amend title 46, United States Code, to establish requirements to ensure the security and safety of passengers and crew on cruise vessels, and for other purposes.

H.R. 3618. An act to provide for implementation of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001, and for other purposes.

At 1:08 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 214. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3305. An act to designate the Federal building and United States courthouse located at 224 South Boulder Avenue in Tulsa, Oklahoma, as the ''H. Dale Cook Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 3618. An act to provide for implementation of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3360. An act to amend title 46, United States Code, to establish requirements to ensure the security and safety of passengers and crew on cruise vessels, and for other purposes.

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–3656. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Vice Admiral William D. Sullivan, United States Navy, and his advancement to the grade of Vice Admiral on the retired list; to the Committee on Armed Services.

EC–3657. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General Thomas R. Turner II, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–3658. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; World Trade Organization Government Procurement Agreement Designated Country'' (DFARS Case 2009–D010) received in the Office of the President of the Senate on November 16, 2009; to the Committee on Armed Services.

EC–3659. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the United Kingdom; to the Committee on Banking, Housing, and Urban Affairs.

EC–3660. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Administrative Ruling System'' (RIN1506–AB03) received in the Office of the President of the Senate on November 12, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–3661. A communication from the Acting Director of Human Resources, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, (3) three reports relative to vacancies in the Environmental Protection Agency, received in the Office of the President of the Senate on November 16, 2009; to the Committee on Environment and Public Works.

EC–3662. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Pollution Prevention Equipment'' ((RIN1625–AA90) (Docket No. USG–2004–18939)) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3663. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Anchorages; New and Revised Anchorages in

the Captain of the Port Portland, OR, Area of Responsibility'' ((RIN1625–AA01) (Docket No. USG–2008–1232)) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3664. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations; East River, New York City, NY'' ((RIN1625–AA09) (Docket No. USG–2009–0348)) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3665. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (AIWW), Elizabeth River, Southern Branch, VA '' ((RIN1625–AA09) (Docket No. USG–2009–0814)) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3666. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Naval Base Point Loma; San Diego, CA'' ((RIN1625–AA87) (Docket No. USG–2008–1016)) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3667. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Catholic Church Processions, San Diego Bay, San Diego, CA'' ((RIN1625–AA00) (Docket No. USG–2009–0812)) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3668. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Waters Surrounding M/V Guilio Verne and Barge Hagar for the Transbay Cable Laying Project, San Francisco Bay, CA'' ((RIN1625–AA00) (Docket No. USG–2009–0870)) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3669. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Beachfest Fireworks, Pacific Ocean, San Diego, CA'' ((RIN1625–AA00) (Docket No. USG–2009–0811)) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3670. A communication from the Acting Assistant Administrator of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2009 Management Measures for Petrale Sole'' (RIN0648–AY07) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3671. A communication from the Acting Assistant Administrator of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Central Gulf of Alaska Rockfish Program; Amendment 85'' (RIN0648–AX42) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3672. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the United States Exclusive Economic Zone Off Alaska; Fisheries of the Arctic Management Area; Bering Sea Subarea'' (RIN0648–AX71) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3673. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Pacific Halibut Fisheries; Subsistence Fishing'' (RIN0648–AX53) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3674. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Services, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XS69) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3675. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Wheatland, Wyoming)'' (MB Docket No. 08–3) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3676. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Leupp, Arizona)'' (MB Docket No. 09–98) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3677. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dubois, Wyoming)'' (MB Docket No. 09–83) received in the Office of the President of the Senate on November 12, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3678. A communication from the Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pipeline Safety: Incorporation by Reference Update: American Petroleum Institute (API) Standards 5L and 1104'' (RIN2137–AE42) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3679. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Disadvantaged Business Enterprise Program; Inflationary Adjustment'' (RIN2105–AD79) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3680. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standard No. 121; Air Brake Systems'' (RIN2127–AK44) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3681. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pilot, Flight Instructor, and Pilot School Certification; Correction'' (RIN2120–AI86) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3682. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Colored Federal Airway; Washington'' ((RIN2120–AA66)(Docket No. FAA–2009–0970)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3683. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of VOR Federal Airway V–626; UT'' ((RIN2120–AA66)(Docket No. FAA–2009–0311)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3684. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Restricted Areas and Other Special Use Airspace; Fallon, NV'' ((RIN2120–AA66)(Docket No. FAA–2009–0700)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3685. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Federal Airways V–163 and V–358 in the Lampasas, TX, Area'' ((RIN2120–AA66)(Docket No. FAA–2009–0128)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3686. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Production and Airworthiness Approvals, Part Marking, and Miscellaneous Amendments'' ((RIN2120–AJ44) (Docket No. FAA–2006–25877)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3687. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D and E Airspace and Modification of Class E Airspace; State College, PA'' ((RIN2120–AA66)(Docket No. FAA–2009–0750)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3688. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and E Airspace; New Orleans NAS, LA'' ((RIN2120–AA66) (Docket No. FAA–2009–0405)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3689. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace; Topeka, KS'' ((RIN2120–AA66)(Docket No. FAA–2009–0404)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3690. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Nantucket, MA'' ((RIN2120–AA66)(Docket No. FAA–2008–1253)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3691. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Noorvik, AK'' ((RIN2120–AA66)(Docket No. FAA–2009–0318)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3692. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Spencer, WV'' ((RIN2120–AA66)(Docket No. FAA–2009–0602)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3693. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Anniston, AL'' ((RIN2120–AA66)(Docket No. FAA–2009–0653)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3694. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Beckley, WV'' ((RIN2120–AA66)(Docket No. FAA–2009–0651)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3695. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Tioga, ND'' ((RIN2120–AA66)(Docket No. FAA–2009–0504)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3696. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; St. Louis, MO'' ((RIN2120–AA66)(Docket No. FAA–2009–0541)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3697. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Peoria, IL'' ((RIN2120–AA66)(Docket No. FAA–2009–0511)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Many, LA'' ((RIN2120–AA66) (Docket No. FAA–2009–0536)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Midlothian-Waxahachie, TX'' ((RIN2120–AA66) (Docket No. FAA–2009–0513)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Winona, MN'' ((RIN2120–AA66) (Docket No. FAA–2009–0539)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Minden, NE'' ((RIN2120–AA66) (Docket No. FAA–2009–0542)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (15); Amdt. No. 3347'' (RIN2120–AA65) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3703. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (93); Amdt. No. 3346'' (RIN2120–AA65) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3704. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (27); Amdt. No. 3343'' (RIN2120–AA65) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3705. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (46); Amdt. No. 3344'' (RIN2120–AA65) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3706. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (5); Amdt. No. 3345'' (RIN2120–AA65) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3707. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (93); Amdt. No. 3342'' (RIN2120–AA65) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3708. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0996)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3709. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; International Aero Engines AG (IAE) V2500–A1, V2527E–A5, V2530–A5, and V2528–D5 Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2009–0294)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3710. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, 747SP Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–1000)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3711. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–200C and 747–200F Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–1362)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3712. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Hawker Beechcraft Corporation Model 1900, 1900C, and 1900D Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–1312)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3713. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 767–200, –300, –300F, and –400ER Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0314)) received in the Office of the

President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3714. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cessna Aircraft Company 150 and 152 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2007–27747)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3715. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab AB, Saab Aerosystems Model SAAB 340A (SAAB/SF340A) and SAAB 340B Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0910)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3716. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; ATR Model ATR42 and ATR72 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0999)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3717. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) Airplanes, Model CL–600–2D15 (Regional Jet Series 705) Airplanes, and Model CL–600–2D24 (Regional Jet Series 900) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0998)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3718. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; EMBRAER Model EMB–120, –120ER, –120FC, –120QC, and –120RT Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–1001)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3719. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0399)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3720. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada Model 407 and 427 Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2009–1003)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3721. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Reims Aviation S.A. Model F406 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2007–0115)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3722. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Model F.27 Mark 050, 200, 300, 400, 500, 600, and 700 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–1024)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3723. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; 328 Support Services GmbH Dornier Model 328–300 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–1023)) received in the Office of the President of the Senate on November 13, 2009; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, without amendment and with a preamble:

H. Con. Res. 36. A concurrent resolution calling on the President and the allies of the United States to raise in all appropriate bilateral and multilateral fora the case of Robert Levinson at every opportunity, urging Iran to fulfill their promises of assistance to the family of Robert Levinson, and calling on Iran to share the results of its investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation.

S. Res. 341. A resolution supporting peace, security, and innocent civilians affected by conflict in Yemen.

S. Res. 345. A resolution deploring the rape and assault of women in Guinea and the killing of political protesters.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. HARKIN for the Committee on Health, Education, Labor, and Pensions.

*David Morris Michaels, of Maryland, to be an Assistant Secretary of Labor.

*Pamela S. Hyde, of New Mexico, to be Administrator of the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. MERKLEY (for himself, Mr. BAUCUS, Mr. WYDEN, and Mr. TESTER):

S. 2791. A bill to authorize the Secretary of the Interior to grant economy-related contract extensions of a certain timber contracts between the Secretary of the Interior and timber purchasers, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. GILLIBRAND:

S. 2792. A bill to amend the Federal Meat Inspection Act to develop an effective sampling and testing program to test for E. coli O157:H7 in boneless beef manufacturing trimmings and other raw ground beef components , and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself and Mr. VOINOVICH):

S. 2793. A bill to amend the Homeland Security Act of 2002 to provide for clarification on the use of funds relating to certain homeland security grants, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SCHUMER:

S. 2794. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the donation of wild game meat; to the Committee on Finance.

By Mr. VITTER:

S. 2795. A bill to prevent terrorists and those at war with the United States from receiving the same treatment as United States citizens and to ensure that the trials of those individuals would not bring more harm or reduce national security in the United States; to the Committee on the Judiciary.

By Mr. ENZI (for himself, Mr. NELSON of Nebraska, Mr. ALEXANDER, Mr. BURR, Mr. COBURN, Mr. GREGG, Mr. HATCH, Mr. ISAKSON, Mr. MCCAIN, Ms. MURKOWSKI, and Mr. ROBERTS):

S. 2796. A bill to extend the authority of the Secretary of Education to purchase guaranteed student loans for an additional year, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GREGG:

S. 2797. A bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to provide an exemption from certain requirements for States that provide sufficient time to vote; to the Committee on Rules and Administration.

By Mr. UDALL of Colorado (for himself and Mr. RISCH):

S. 2798. A bill to reduce the risk of catastrophic wildfire through the facilitation of insect and disease infestation treatment of National Forest System and adjacent land, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself, Mr. MCCONNELL, Mr. ROCKEFELLER, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr.

FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON, Mr. KAUFMAN, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEMIEUX, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN):

S. Res. 354. A resolution commending Robert C. Byrd, Senator from West Virginia; considered and agreed to.

ADDITIONAL COSPONSORS

S. 46

At the request of Mr. ENSIGN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 46, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 148

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) 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. 332

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KIRK) was added as a cosponsor of S. 332, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 424

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 424, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 448

At the request of Mr. SPECTER, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 448, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 510

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

S. 583

At the request of Mr. PRYOR, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 583, a bill to provide grants and loan guarantees for the development and construction of science parks to promote the clustering of innovation through high technology activities.

S. 599

At the request of Mr. CARPER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 599, a bill to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any certain diseases is the result of the performance of such employee's duty.

S. 727

At the request of Ms. LANDRIEU, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 727, a bill to amend title 18, United States Code, to prohibit certain conduct relating to the use of horses for human consumption.

S. 812

At the request of Mr. UDALL of Colorado, his name was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 825

At the request of Mrs. LINCOLN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 825, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 850

At the request of Mr. KERRY, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Maine (Ms. SNOWE) 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. 857

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 857, a bill to amend the Internal Revenue Code of 1986 to allow a $1,000 refundable credit for individuals who are bona fide volunteer members of volunteer firefighting and emergency medical service organizations.

S. 994

At the request of Ms. KLOBUCHAR, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor 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. 1055

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1067

At the request of Mr. FEINGOLD, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Washington (Mrs. MURRAY) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1233

At the request of Ms. LANDRIEU, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1233, a bill to reauthorize and improve the SBIR and STTR programs and for other purposes.

S. 1313

At the request of Mr. LUGAR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1313, a bill to amend the Internal Revenue Code of 1986 to permanently extend and expand the charitable deduction for contributions of food inventory.

S. 1325

At the request of Mr. SPECTER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1325, a bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the section 45 credit for refined coal from steel industry fuel, and for other purposes.

S. 1492

At the request of Ms. MIKULSKI, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor 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. 1524

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) 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. 1606

At the request of Mr. WHITEHOUSE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of 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.

S. 1681

At the request of Mr. LEAHY, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1681, a bill to ensure that health insurance issuers and medical malpractice insurance issuers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers.

S. 1709

At the request of Ms. STABENOW, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1709, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1789

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1789, a bill to restore fairness to Federal cocaine sentencing.

S. 1963

At the request of Mr. AKAKA, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Connecticut (Mr. DODD) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1963, a bill to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes.

S. 2607

At the request of Mr. REID, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2607, a bill to amend the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 to repeal a provision of that Act relating to geothermal energy receipts.

S. 2730

At the request of Mr. BROWN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2730, a bill to extend and enhance the COBRA subsidy program under the American Recovery and Reinvestment Act of 2009.

S. 2747

At the request of Mr. BINGAMAN, the names of the Senator from New Mexico (Mr. UDALL) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2747, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 2752

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2752, a bill to ensure the sale and consumption of raw oysters and to direct the Food and Drug Administration to conduct an education campaign regarding the risks associated with consuming raw oysters, and for other purposes.

S. 2787

At the request of Mr. THUNE, the names of the Senator from Maine (Ms. SNOWE), the Senator from Mississippi (Mr. WICKER) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 2787, a bill to repeal the authority of the Secretary of the Treasury to extend the Troubled Asset Relief Program.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MERKLEY (for himself, Mr. BAUCUS, Mr. WYDEN, and Mr. TESTER):

S. 2791. A bill to authorize the Secretary of the Interior to grant economy-related contract extensions of certain timber contracts between the Secretary of the Interior and timber purchasers, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MERKLEY. Mr. President, today I am pleased to be joined by my colleagues Senators RON WYDEN, MAX BAUCUS, and JON TESTER, as I introduce the Forest Harvest Opportunity Act. This legislation will provide a very simple, yet critical, solution to a significant problem currently facing timber communities across the country.

As we all know, rural communities across the country have been hit particularly hard by our current economic recession. The unemployment rate for rural counties is far greater than the national average; it surpasses 20 percent in many of the rural communities in my own home state. As my colleagues have heard me mention on numerous occasions, many of our rural communities have been doubly hurt by the current economic recession because they depend on harvests from federally-owned forest land as a major component of their economies. These communities have already been struggling because timber harvests on our Federal land have been declining, but they are facing even worse situations today because the collapse of the housing market has caused a precipitous drop in timber prices.

For some of our forestry companies, this creates an even worse situation: the contracts they have to harvest timber on Federal land are now worthless. Many of these contracts were signed with the Forest Service or the Bureau of Land Management before the recession, when timber prices were still high. However, because of the decline in timber prices, harvesting today would cost forest companies more than the wood is worth and could cause ruinous problems for some of these companies.

The solution is simple common sense: allow companies to apply for additional time to harvest wood they have contracted for in times of unique economic circumstances. This simple change would allow these companies to delay the harvest until the price of timber had returned to a point that enabled the forest companies to earn a profit on the harvest. This change is not a novel idea. In fact, the Forest Service has rules in place allowing to do exactly that. Unfortunately, the Bureau of Land Management does not have similar rules in place. So, based simply on which agency a company has a contract with—and in Oregon Forest Service and BLM lands can be side-by-side—these companies may be forced to harvest timber at a loss or walk away from a contract they have won after a fair bidding process.

The Forest Harvest Opportunity Act provides a simple solution and allows these companies—and only companies who have contracts right now during the current recession—to petition for and receive an extension so they can harvest when timber prices return to a normal rate. This bill is a simple solution to address an important problem. Enacting this legislation would provide significant economic help for communities that are already among the hardest-hit by this economic downturn. I look forward to working with my colleagues for its passage.

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. 2791

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 ''Forest Harvest Opportunity Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ECONOMY-RELATED CONTRACT EXTENSION.—The term ''economy-related contract extension'' means the addition of 3 years to the expiration date of a qualifying contract for the right to cut and remove timber.

(2) QUALIFYING CONTRACT.—The term ''qualifying contract'' means a contract, executed on or before December 31, 2008, for the sale of timber from land administered by the Bureau of Land Management—

(A) for which there is unharvested volume remaining;

(B) for which, not later than 90 days after the date of enactment of this Act, the timber purchaser makes a written request to the Secretary for an economy-related contract extension; and

(C) that has not been terminated prior to the request for an economy-related contract extension under section 3(a).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(4) TIMBER PURCHASER.—The term ''timber purchaser'' means the party to the qualifying contract for the sale of timber from land administered by the Bureau of Land Management.

SEC. 3. ECONOMY-RELATED CONTRACT EXTENSIONS.

(a) REQUEST.—Not later than 30 days after a timber purchaser requests an economy-related contract extension of a qualifying contract between the Secretary and the timber purchaser, the Secretary shall modify the qualifying contract to add 3 years to the contract expiration date.

(b) WAIVER OF CLAIMS AS OF EXTENSION.—The timber purchaser shall waive any and all claims the timber purchaser has against the United States involving the qualifying contract that exist on the date that the Secretary modifies the qualifying contract under subsection (a).

(c) CLAIMS PRIOR TO DATE OF EXTENSION.—Nothing in this Act affects any claim by the United States against any timber purchaser, including claims that arose under a qualifying contract before the date on which the Secretary extends the contract expiration date under subsection (a).

By Mr. LEAHY (for himself and Mr. VOINOVICH):

S. 2793. A bill to amend the Homeland Security Act of 2002 to provide for clarification on the use of funds relating to certain homeland security grants, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. LEAHY. Mr. President, today I am introducing the Strengthening and Updating Resources and Equipment, SURE, Act, a bill that will enable our country's first responders to maintain important equipment to protect our communities. I thank Senator VOINOVICH for his support of this important legislation. First responders across the country provide critical protection from attacks on our Nation, and we should ensure they have the tools they need to keep our communities safe and prepared.

On September 22, the Federal Emergency Management Agency announced a considerable change in their policy regarding the use of preparedness grants. The new guidelines state that recipients of Urban Area Security Initiative and State Homeland Security Grant Program SHSGP, funds may no longer use the funds for maintenance of equipment beyond the period of performance for the grant. This shifts the burden of maintenance costs for important homeland security equipment to States and communities, many of which are already struggling in the current economic downturn.

Much of the equipment purchased with these grants is complex and costly to maintain, and disallowing the use of grants to cover expensive maintenance costs means that many communities will have to forego the use of systems in which they have already invested precious resources. Also, many State and local governments may be unable to purchase essential equipment because they would be unable to cover the maintenance costs in future years.

A plan to implement a statewide communications system for first responders in my home state of Vermont is severely hampered by this policy change. State and local officials have been developing this system, known as the Lifeline System, for years and have planned for implementation by combining portions of 4 years of SHSGP grants with additional law enforcement funding. Upon completion of this important system for statewide coordination, considerable funds will be required to ensure that the system remains effective. If Vermont is unable to use preparedness grants for future maintenance, the Lifeline System may become inoperable, severely diminishing statewide coordination for homeland security and emergency management. I have heard from law enforcement officials in Vermont like Lieutenant Michael Manning of the Vermont State Police about how changes in these grant programs will affect state emergency law enforcement services.

The SURE Act would make changes to the Homeland Security Act of 2002 to clarify that the administrator of these grants may not place limitations on the use of preparedness grants for maintenance costs. This important clarification means that State and local law enforcement will be able to apply funds they receive to sustain the vital systems and equipment that have been put in place to keep our communities safe.

Our Nation's law enforcement officers deserve our commitment to provide them with the tools they need to carry out their duties. I support and respect our State and local police officers and all of our first responders, and am proud to recognize their role in upholding the rule of law and keeping our Nation safe and secure.

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. 2793

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 ''Strengthening and Updating Resources and Equipment Act'' or the ''SURE Act''.

SEC. 2. CLARIFICATION ON USE OF FUNDS RELATING TO CERTAIN HOMELAND SECURITY GRANTS.

(a) IN GENERAL.—Section 2008 of the Homeland Security Act of 2002 (6 U.S.C. 609) is amended—

(1) in subsection (a)(4), by inserting before the semicolon at the end the following: '', and any related maintenance agreements, user fees, or sustainment costs''; and

(2) in subsection (b)(3), by adding at the end the following:

''(C) EQUIPMENT MAINTENANCE.—With respect to the use of amounts awarded to a grant recipient under section 2003 or 2004 for equipment purchase and maintenance costs, the Administrator may not—

''(i) impose a limit on the amount of any such award that may be used to pay for such purchase and maintenance costs, including any costs referred to in subsection (a)(4); or

''(ii) impose any additional limitation, including any fiscal year limitation, beyond any limitation under this section, on the amount of any such award that may be used for a specific type, purpose, or category of equipment purchase or maintenance cost.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this section and shall apply to grants made under section 2003 or 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 605), in accordance with the provisions specified in section 2008 of such Act (6 U.S.C. 609), as amended by subsection (a) of this section, on or after October 1, 2008.

By Mr. ENZI (for himself, Mr. NELSON, of Nebraska, Mr. ALEXANDER, Mr. BURR, Mr. COBURN, Mr. GREGG, Mr. HATCH, Mr. ISAKSON, Mr. MCCAIN, Ms. MURKOWSKI, and Mr. ROBERTS):

S. 2796. A bill to extend the authority of the Secretary of Education to purchase guaranteed student loans for an additional year, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce legislation to extend for 1 year the Ensuring Continued Access to Student Loans Act of 2008, ECASLA. Without this extension, hundreds of thousands of students may not have access to student loans for the 2010–2011 academic year.

Since 1965, the Federal Family Education Loan, FFEL, program has successfully helped millions of Americans realize the dream of a college education. Today, it continues to provide student loans for nearly 70 percent of America's college students at over 3,400 schools. However, during the credit crisis of 2008 many private, non-profit FFEL lenders encountered difficulty raising the necessary capital to make student loans, and others left the FFEL program. Congress responded by passing the bipartisan, cost-neutral Ensuring Continued Access to Student Loans Act of 2008. ECASLA preserved liquidity in the student loan market by giving the Secretary of Education temporary authority to purchase student loans made under the FFEL program. It has been a resounding success—it has preserved liquidity in the student loan market, it has been cost neutral, in fact it has generated revenue and, most importantly, it has maintained student access to FFEL loans.

However, while it was meant to be temporary, serious problems persist in the financial markets and many private, non-profit FFEL lenders are again considering leaving the FFEL program when ECASLA expires on July 1, 2010. The potential consequences could be catastrophic for America's college students, many of whom will be unable to secure student loans for 2010–2011 academic year without a functioning FFEL program.

Given this predicament, the solution is simple—extend ECASLA for an additional year. Unfortunately, instead of working with Congress to pass a clean, bipartisan, one-year extension of ECASLA, the Department of Education is pursuing yet another government takeover and placing undue pressure on FFEL-participating schools to switch to the government-run Direct Loan, DL, program. Some schools will make this choice, but most do not want to because the FFEL program provides a product and services that meet individual student needs rather than the one-size-fits-all approach of the government-run DL program.

Moreover, schools begin making financial aid determinations in January—just seven weeks from now. Given that it can take 4 months to make the switch to the government-run DL program, most schools do not have the time, staff, resources or capacity to make the switch while at the same time attending to the financial aid needs of current and enrolling students. Furthermore, making the switch is not simply a matter of ''flipping a switch,'' as the Department of Education asserts. Among other things, schools must install new computer software, hire and train financial aid personnel, and receive substantial technical assistance from the Department of Education. While the Department has been able to successfully assist the several hundred schools that have made the switch over the past year, thousands will need assistance over the next 7 months. The Department simply does not have the resources to devote the necessary time and attention to all of these schools, which will frantically be trying to switch before ECASLA expires on July 1, 2010.

At this point, the only responsible course of action for Congress is to pass a clean, one-year extension of ECASLA. This will ensure that students have access to student loans, and will give Congress the time needed to have a serious and well thought discussion about the future of the Federal student loan program.

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. 2796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF STUDENT LOAN PURCHASE AUTHORITY.

Section 459A of the Higher Education Act of 1965 (20 U.S.C. 1087i–1) is amended—

(1) in subsections (a)(1), (a)(3)(A), and (f), by striking ''July 1, 2010'' and inserting ''July 1, 2011''; and

(2) in subsection (e)—

(A) in the matter preceding clause (i) of paragraph (1)(A) and the matter preceding subparagraph (A) of paragraph (2), by striking ''September 30, 2010'' and inserting ''September 30, 2011'';

(B) in paragraph (2), by striking ''February 15, 2011'' and inserting ''February 15, 2012''; and

(C) in paragraph (3), by striking ''2010, and 2011'' and inserting ''2010, 2011, and 2012''.

SEC. 2. EXTENSION OF AUTHORITY TO DESIGNATE LENDERS FOR LENDER-OF-LAST-RESORT PROGRAM.

Section 428(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(j)) is amended—

(1) in paragraph (6), by striking ''June 30, 2010'' and inserting ''June 30, 2011'';

(2) in paragraph (7), by striking ''June 30, 2010'' and inserting ''June 30, 2011''; and

(3) in paragraph (9)(A)—

(A) in the matter preceding subclause (I) of clause (ii), by striking ''June 30, 2011'' and inserting ''June 30, 2012'';

(B) in subclause (III) of clause (ii), by striking ''June 30, 2010'' and inserting ''June 30, 2011''; and

(C) in the matter preceding subclause (I) of clause (iii), by striking ''July 1, 2011'' and inserting ''July 1, 2012''.

By Mr. UDALL of Colorado (for himself and Mr. RISCH):

S. 2798. A bill to reduce the risk of catastrophic wildfire through the facilitation of insect and disease infestation treatment of National Forest System and adjacent land, 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 colleague Senator RISCH, the National Forest Insect and Disease Emergency Act of 2009.

This bipartisan bill will provide additional tools and resources to the U.S. Forest Service to help address a serious natural disaster in many western forests—the deaths of millions of acres of trees due to insect infestations. This is an issue of long-standing concern in the West and of the utmost importance. Since my very first days in Congress nearly 11 years ago, I have been fighting for Colorado's forest health. This day has been a long time in coming for me, but it is by no means the end of the fight. We still have a long way to go in combating this problem, and it is a fight I intend to see to the end.

The bill that Senator RISCH and I are introducing today addresses any and all insect and disease outbreaks in our national forests. But this bill is in direct response to an especially pronounced epidemic of bark beetles in western States. This epidemic is creating serious concerns in our communities regarding our forested regions, the recreational economy of these areas, and water supplies and infrastructure that exist on these lands.

In essence, this bill is about securing our communities from a natural threat—a threat that is as potentially devastating and disruptive as a hurricane or an earthquake. This threat is a function of both human actions and natural processes—especially global climate change.

I recently had the chance to show one of our colleagues the devastating impact of the bark beetle epidemic. Senator JOHN MCCAIN joined me at a hearing of the National Parks Subcommittee, which I chair, in August in Estes Park, CO. Senator MCCAIN and I saw firsthand the march of the bark beetle as it is making its way through Rocky Mountain National Park. We were both struck by the extent of dead trees colored rust red by this insect.

Bark beetles and other insects that feed on trees are a natural part of the forest ecology. When present at normal levels, they provide benefits to the forest ecology by thinning dense tree stands, creating openings for wildlife, and promoting cyclical regrowth.

Today, various parts of the U.S.—but especially western States—continue to experience unnaturally large-scale infestations of bark beetles and other insects that have resulted from past policies and warming climate conditions.

Recent periods of drought have weakened the trees on Forest Service land and caused the trees to be more susceptible to fire and insects. In addition, population growth on land adjacent to Forest Service land has exacerbated the threats posed by insect-killed trees by placing large numbers of citizens, homes, and businesses at greater risk of catastrophic wildland fire.

And because hundreds of miles of power transmission lines and dozens of communication sites are surrounded by dead trees that will fall due to rotted root systems, the probability that trees will fall on power transmission lines, thereby resulting in wildfires and power transmission disruptions for long periods of time, has substantially increased.

Falling dead trees are also a hazard along hundreds of miles of roads and trails, threatening the safety of motorists and recreationists and disrupting access to, and through, Forest Service land. Hundreds of developed recreation sites, including campgrounds, picnic areas, and trailheads, contain dead trees that threaten recreationists. If these dead trees are not removed, these developed recreation sites will need to be closed to preserve public safety. We are in fact experiencing these closures in Colorado.

Moreover, parcels of Forest Service land in many locations contain headwaters of water supplies for many communities. Severe wildfires that remove vegetative cover pose a threat to the quantity and quality of water by exposing soil to erosion, thereby causing a transfer of sediment to rivers, reservoirs, and water conveyance systems. In other words, the fire threats posed by these dead trees can have serious implications to providing water not only to local communities, but also to major cities downstream that rely upon rivers and streams flowing from forested mountain regions.

All of these concerns demand that we take action to help address these threats. That is what this bipartisan bill does.

It does so by establishing ''insect emergency areas''—that is, areas defined by the Forest Service as experiencing significant tree mortality that

results in increased wildfire threats and risks to people and infrastructure from falling dead trees. These areas would be in the States from the Rocky Mountains to the Pacific coast, States that are experiencing large-scale insect outbreaks.

Within these areas, the Forest Service would be directed to provide priority treatment to reduce these threats. The Forest Service would also be allowed to apply funds from the Agricultural Credit Act program, which compensates individuals for removing biomass for productive uses, towards the removal of beetle-killed trees.

The bill also provides incentives to convert this removed vegetation into biofuels.

It allows the Forest Service to apply the streamlined National Environmental Policy Act provisions to expedite environmental analysis of the treatment work that is urgently needed in these high-priority emergency areas.

In addition to this focus on emergency areas the bill authorizes an important tool to help communities respond to wildfire threats on nearby Forest Service land. The States of Colorado and Utah have had the benefit of this tool since it was provided by Congress in 2000. This tool, called the ''Good Neighbor Authority,'' allows the Forest Service to contract with state foresters to enter Forest Service lands and implement treatments to reduce threats next to homes and private property whose owners have, in many cases, removed dead trees and performed treatments on their own property adjacent to Forest Service land. This program has been very successful, and the bill we are introducing today will allow all states to benefit from this authority and make it permanent law.

The bill also helps the Forest Service more effectively implement ''stewardship contracting'' as a tool for fuels treatment work. This contracting, which is distinct from traditional timber sale contracts, allows the Forest Service to fashion agreements to perform treatment for trees—like insect-killed trees—that may not have high commercial value. This program has also been extremely successful in helping to reduce fire threats in areas that do not possess high commercially valued timber.

However, the Forest Service has not had the funding it needs to use this tool more extensively. As a result, the bill would make this ''stewardship contracting'' program permanent, and it would eliminate the requirement that the Forest Service set aside funds in the very unlikely event that it would have to cancel these contracts and pay back the contractors. The bill would authorize the Forest Service to use other funds to cancel these contracts as well as seek appropriations to pay for any contract cancellations. In so doing, the bill will help make this tool more available and allow more funds to be applied to urgently needed, on-the-ground treatment work.

I have been working with Colorado communities, the Forest Service and stakeholders since 2000 on forest health issues and responding to this bark beetle threat. I have supported providing additional tools and resources to the Forest Service to respond to this threat, such as the Healthy Forest Restoration Act, and focusing increased funds in the high hazard wildland/urban interface near communities.

This bill is an effort to continue providing such tools and resources so that we can reduce the impacts to people and property, reduce loss of life fighting catastrophic wildfires, and promote a more healthy forest ecosystem. I am relieved that we in Colorado did not experience a serious wildfire season this year like we have experienced in years past—and like we will probably face in the years ahead. But we must be ready to respond to these fires that will inevitably come. This bill takes a step in that direction. It will not solve all issues related to forest health or stop all fires. Fire is a necessary part of our forests. But the bill will help us reduce threats and promote healthy ecosystems and economies.

I look forward to working with my colleagues from both sides of the aisle in seeing this bill passed.

Mr. President, I ask unanimous consent that the text of the bill and a bill summary be printed in the RECORD.

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

S. 2798

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 ''National Forest Insect and Disease Emergency Act of 2009''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to ensure that adequate emphasis is placed on the mitigation of hazards posed by large-scale infestations of bark beetles and other insects through the establishment of insect and disease emergency areas;

(2) to ensure that increased resources are available within each designated insect and disease emergency area to mitigate hazards associated with—

(A) falling trees;

(B) increased fire hazards; and

(C) the restoration of National Forest System land; and

(3) to make permanent, as of the date of enactment of this Act, existing good neighbor and stewardship contracting authorities.

SEC. 3. DEFINITIONS.

In this Act:

(1) AFFECTED STATE.—The term ''affected State'' includes each of the States of—

(A) Arizona;

(B) California;

(C) Colorado;

(D) Idaho;

(E) Montana;

(F) Nevada;

(G) New Mexico;

(H) Oregon;

(I) South Dakota;

(J) Utah;

(K) Washington; and

(L) Wyoming.

(2) INSECT AND DISEASE EMERGENCY AREA.—The term ''insect and disease emergency area'' means an area of National Forest System land—

(A) that is located in an affected State that is not—

(i) designated as wilderness; or

(ii) an area recommended for wilderness in a forest land and resource management plan;

(B) in which an insect and disease infestation emergency exists, as determined by the Secretary; and

(C) that is designated by—

(i) section 4(a); or

(ii) the Secretary under section 4(c).

(3) INSECT AND DISEASE INFESTATION EMERGENCY.—The term ''insect and disease infestation emergency'' means an insect or disease infestation that has resulted in—

(A) a current or future increased risk of catastrophic wildland fire; or

(B) an increased threat posed by hazard trees to—

(i) utility corridors;

(ii) communication sites;

(iii) roads;

(iv) recreation sites;

(v) water structures (such as reservoirs and water conveyance systems); or

(vi) other infrastructure.

(4) MAP.—The term ''map'' means the map entitled ''Insect Emergency Areas''.

(5) NATIONAL FOREST SYSTEM.—The term ''National Forest System'' has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 4. DESIGNATION OF INSECT AND DISEASE EMERGENCY AREAS.

(a) DESIGNATION.—Each area depicted on the map is designated as an insect and disease emergency area under this Act.

(b) MAP.—

(1) DUTY OF SECRETARY.—As soon as practicable after the date of enactment of this Act, the Secretary shall file the map for insect and disease emergency areas designated by subsection (a) with—

(A) the Committee on Energy and Natural Resources of the Senate;

(B) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(C) the Committee on Natural Resources of the House of Representatives; and

(D) the Committee on Agriculture of the House of Representatives.

(2) FORCE OF LAW.—The map filed under paragraph (1) shall have the same force and effect as if included in this subsection, except that the Secretary may correct typographical errors in the map and the legal descriptions.

(3) PUBLIC AVAILABILITY.—The map filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(c) DESIGNATION BY SECRETARY.—

(1) IN GENERAL.—The Secretary may designate additional insect and disease emergency areas in accordance with each requirement described in this subsection.

(2) INITIATION.—The designation of an insect and disease emergency area may be made by the Secretary—

(A) on the initiative of the Secretary; or

(B) in response to a request by any Governor of an affected State.

(3) DEADLINE.—If the Governor of a State described in paragraph (2)(B) requests the Secretary to designate as an insect and disease emergency area an area located in the State, the Secretary shall accept or deny the request by a date that is not later than 90

days after the date on which the Secretary receives the request.

(4) LIMITATION ON DELEGATION.—With respect to National Forest System land, the Secretary, acting through the Chief of the Forest Service, may delegate the authority to make a designation under this subsection only to a Regional Forester of the National Forest System land.

(5) PROCEDURE.—If the Secretary designates an additional insect and disease emergency area under paragraph (1), the Secretary shall—

(A) publish a notice of the designation of the insect and disease emergency area (including a map of the insect and disease emergency area) in the Federal Register; and

(B) notify—

(i) each appropriate State; and

(ii) the appropriate committees of Congress.

(6) APPLICABILITY.—A designation made by the Secretary under paragraph (1) shall not be subject to—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–289); or

(C) any other applicable law (including regulations).

SEC. 5. RESPONSE TO EMERGENCY DESIGNATION.

(a) PRIORITY TREATMENTS.—In carrying out the management of an insect and disease emergency area, the Secretary shall give priority consideration to—

(1) the removal of hazardous fuels and hazard trees on, and the restoration of the health of, National Forest System land located in the insect and disease emergency area; and

(2) the provision of assistance to State and local governments, Indian tribes, and private landowners for the removal of hazardous fuels and hazard trees on, and the restoration of the health of, each parcel of land located in the insect and disease emergency area—

(A) that is under the jurisdiction of the State or local government or Indian tribe; or

(B) the title of which is held by a private landowner; and

(3) the making of payments under section 9011(d)(1)(B) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8111(d)(1)(B)) to each individual or entity that collects or harvests renewable biomass from a parcel of National Forest System land located in an insect and disease emergency area.

(b) EMERGENCY FOREST RESTORATION.—In implementing the emergency forest restoration program under section 407 of the Agricultural Credit Act of 1978 (16 U.S.C. 2206), the Secretary may make payments to an owner of a parcel of nonindustrial private forest land that is located in an insect and disease emergency area to carry out emergency measures in response to an insect and disease infestation emergency under this Act.

(c) BIOMASS.—Any biomass removed from a parcel of land located in an insect and disease emergency area shall be considered to be renewable biomass for purposes of the renewable fuel standard under section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)).

(d) HEALTHY FOREST RESTORATION.—

(1) AUTHORITY OF SECRETARY.—The Secretary may apply each requirement described in sections 104 and 105 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6514, 6515) to projects that are carried out to remove hazardous fuels and hazard trees on, and to restore the health of, National Forest System land that is located in an insect and disease emergency area.

(2) JUDICIAL REVIEW.—Section 106 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6516) shall apply to each project described in paragraph (1).

SEC. 6. GOOD NEIGHBOR AUTHORITY.

(a) STATE FOREST SERVICES.—

(1) AUTHORITY OF SECRETARY.—Notwithstanding chapter 63 of title 31, United States Code, and any provisions of law related to competition, the Secretary may enter into a contract (including a sole source contract) or agreement (including an agreement for the mutual benefit of the Secretary and the State), as appropriate and consistent with all applicable general and specific operating procedures established by the Forest Service for such contracts and agreements (including labor and wage requirements), with a State to permit the State to perform watershed restoration and protection services on National Forest System land located in the State if the State is carrying out similar and complementary watershed restoration and protection services on adjacent State or private land.

(2) AUTHORIZED SERVICES.—Watershed restoration and protection services described in paragraph (1) include—

(A) the treatment of insect-infested trees;

(B) the reduction of hazardous fuels; and

(C) any other activity that is carried out to restore or improve watersheds or fish and wildlife habitat across ownership boundaries.

(b) ADMINISTRATIVE PROVISIONS.—

(1) NATIONAL FOREST MANAGEMENT ACT OF 1976.—Subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) shall not apply to services performed under a contract or other agreement under subsection (a)(1).

(2) ASSUMPTION OF LIABILITY.—The State shall assume liability, to the extent allowed by Federal, State, and local law, for the actions or omissions of employees or subcontractors of the State in preparing or implementing a contract or agreement under this title.

(3) SUBCONTRACTS.—A State may subcontract, to the extent allowed by State and local law, to prepare or implement a contract or agreement under this title.

(4) DISPUTE RESOLUTION.—Any dispute under a contract or agreement under subsection (a)(1) shall be resolved in accordance with, as applicable—

(A) the dispute clause of the contract or agreement;

(B) the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.); or

(C) section 1491 of title 28, United States Code.

(c) RETENTION OF RESPONSIBILITIES UNDER NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—With respect to any watershed restoration and protection service on National Forest System land that is proposed to be carried out by a State under subsection (a), any decision required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) may not be delegated to the State or any officer or employee of the State.

(d) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), the authority provided by this section applies only to National Forest System land located in affected States.

(2) SECRETARY OF THE INTERIOR.—With respect to public land that is located in an affected State and administered by the Secretary of the Interior (acting through the Bureau of Land Management), the Secretary of the Interior may carry out activities under this section on the public land.

SEC. 7. STEWARDSHIP CONTRACTING.

(a) CANCELLATION COSTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, including section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c), the Secretary may not obligate funds to cover the cost of canceling a Forest Service multiyear stewardship contract under section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105–277) until the date on which the multiyear stewardship contract is cancelled.

(2) COSTS OF CANCELLATION OR TERMINATION.—The costs of any cancellation or termination of a multiyear stewardship contract described in paragraph (1) may be paid from any appropriations that are made available to the Forest Service.

(3) ANTI-DEFICIENCY ACT.—In the case in which the appropriations described in paragraph (2) are exhausted—

(A) the exhaustion shall not be considered to be a violation of section 1341 of title 31, United States Code; and

(B) the Secretary shall seek a supplemental appropriation.

(b) PERMANENT AUTHORITY.—Section 347(a) of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105–277) is amended by striking ''Until September 30, 2013, the'' and inserting ''The''.

SEC. 8. EFFECT.

Nothing in this Act affects or diminishes the rights of any owner of private property.

NATIONAL FOREST INSECT AND DISEASE EMERGENCY ACT OF 2009 SECTION BY SECTION SUMMARY

SEC. 1 SHORT TITLE

The National Forest Insect and Disease Emergency Act of 2009

SEC. 2 PURPOSES

(1) To ensure adequate emphasis is placed on the mitigation of hazards posed by large-scale infestation of bark beetles and other insects through the establishment of insect and disease emergency area;

(2) To ensure increased resources are available within each designated insect and disease emergency area to mitigate hazards associated with falling trees, increased fire hazards and the restoration of national forest system land, and;

(3) To make permanent, as of the date of enactment of this Act, existing good neighbor and stewardship contracting authorities.

SEC. 3 DEFINITIONS

This section describes which states are included in the provisions of this bill, as well as what constitutes an emergency area.

(1) Affected State: Those States that this bill includes. AZ, CA, CO, ID, MT, NV, NM, OR, SD, UT, WA, WY.

(2) Insect and Disease Emergency Area: Where the action mechanisms of this bill can be used.

(3) Insect and Disease Infestation Emergency: This section gives direction on what constitutes an emergency for action as described in this bill.

(4) Map: self descriptive.

(5) National Forest System: self descriptive.

(6) Secretary: of Agriculture

SEC. 4 DESIGNATION OF INSECT AND DISEASE EMERGENCY AREAS

This section describes how the 'map' is determined—either by the Secretary or by a request to the Secretary from the affected states' Governors. It also describes the public notification process and outlines how NEPA and any other applicable laws apply. This section essentially says the insect and disease emergency areas are lines on a map—without effect. The analysis of effects occurs when an action on the ground is proposed.

SEC. 5 RESPONSE TO EMERGENCY DESIGNATION

(a) Priority Treatments: This section describes priorities for treatment—not in order of preference. The intent is for the agency to treat the identified areas before general forest.

The section also allows for assistance to State and local governments, Indian tribes and private landowners for the removal of hazardous trees and restoration of the health of land located in the insect and disease emergency area.

(b) Biomass Use: This provision states priority should be given to those areas that are in the insect and disease emergency areas when determining BCAP funded areas. BCAP is to assist with the collection, harvest, storage, and transportation of biomass material. 'The Secretary shall make a payment for the delivery of eligible material to a biomass conversion facility to (1) a producer of an eligible crop that is produced on BCAP contract acreage; or (2) a person with the right to collect or harvest eligible material' The Biomass Crop Assistance Program (BCAP) provides financial assistance to producers or entities that deliver eligible biomass material to designated biomass conversion facilities for use as heat, power, biobased products or biofuels. Initial assistance will be for the collection, harvest, storage and transportation costs associated with the delivery of eligible materials.

(c) Emergency Forest Restoration: This section provides funding assistance through grants for people who remove biomass from private property. 'The Secretary may make payments to an owner of nonindustrial private forest land who carries out emergency measures to restore the land after the land is damaged by a natural disaster.' This section adds the emergency areas described by this bill under this authority.

(d) Biomass: This amends the definition of the renewable fuels standard. The RFS specifically excludes material from NFS lands—this would include those lands in the insect and disease emergency area.

(e) Healthy Forest Restoration: This section allows the Forest Service to apply the streamlined NEPA provisions of the Healthy Forest Restoration Act to hazardous fuels removal, hazard tree removal and restoration of the health of National Forest land in the insect and disease emergency areas.

SEC. 6 GOOD NEIGHBOR AUTHORITY

This provision makes the Good Neighbor authority permanent for all states.

SEC. 7 STEWARDSHIP CONTRACTING

This provision makes Stewardship contracting permanent. It also changes the current requirement of the Federal Acquisition Regulation to fund costs of cancelling a contract at the time of award for a multi-year stewardship contract to a requirement for payment of contract cancellation at the time such cancellation may occur.

SEC. 8 EFFECT

This section says that nothing in this act diminishes the right of private property owners.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 354—COMMENDING ROBERT C. BYRD, SENATOR FROM WEST VIRGINIA

Mr. REID (for himself, Mr. MCCONNELL, Mr. ROCKEFELLER, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON, Mr. KAUFMAN, Mr. KERRY, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEMIEUX, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 354

Whereas, Robert C. Byrd has served for fifty-six years in the United States Congress, making him the longest serving Member of Congress in history,

Whereas, Robert C. Byrd has served over fifty years in the United States Senate, and is the longest serving Senator in history, having been elected to nine full terms;

Whereas, Robert C. Byrd has had a long and distinguished record of public service to the people of West Virginia and the United States, having held more elective offices than any other individual in the history of West Virginia, and being the only West Virginian to have served in both Houses of the West Virginia Legislature and in both Houses of the United States Congress;

Whereas, Robert C. Byrd has served in the Senate leadership as President pro tempore, Majority Leader, Majority Whip, Minority Leader, and Secretary of the Majority Conference;

Whereas, Robert C. Byrd has served on a Senate committee, the Committee on Appropriations, which he has chaired during five Congresses, longer than any other Senator;

Whereas, Robert C. Byrd is the first Senator to have authored a comprehensive history of the United States Senate;

Whereas, Robert C. Byrd has throughout his service in the Senate vigilantly defended the Constitutional prerogatives of the Congress;

Whereas, Robert C. Byrd has played an essential role in the development and enactment of an enormous body of national legislative initiatives and policy over many decades: now, therefore be it

Resolved, That the Senate recognizes and commends Robert C. Byrd, Senator from West Virginia, for his fifty-six years of exemplary service in the Congress of the United States.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, November 19, 2009, at 2:15 p.m. in Room 628 of the Dirksen Senate Office Building to conduct a business meeting on S. 1635, the 7th Generation Promise: Indian Youth Suicide Prevention Act of 2009, and S. 1790, a bill to amend the Indian Health Care Improvement Act to revise and extend that act, and for other purposes, to be followed immediately by an oversight hearing to examine drug smuggling and gang activity in Indian country.

Those wishing additional information may contact the Indian Affairs Committee at 202–224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on November 18, 2009, at 9:30 a.m. in room 106 of the Russell Senate Office Building.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REED. 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 November 18, 2009, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REED. 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 November 18, 2009, at 9:30 a.m. in room 406 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 18, 2009, at 10:15 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on November 18, 2009, at 10 a.m., in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 18, 2009.

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

COMMITTEE ON THE JUDICIARY

Mr. REED. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on November 18, 2009, at 9:30 a.m., in room SD–G50 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Oversight of the U.S. Department of Justice.''

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

COMMITTEE ON THE JUDICIARY

Mr. REED. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on November 18, 2009, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on November 18, 2009. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mr. REED. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 18, 2009, at 2:30 p.m., to conduct a hearing entitled, ''Accountability for Foreign Contractors: The Lieutenant Colonel Dominic 'Rocky' Baragona Justice for American Heroes Harmed by Contractors Act.''

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. REED. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate to conduct a hearing on November 18, 2009, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

MILITARY CONSTRUCTION, VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

On Tuesday, November 17, 2009, the Senate passed H.R. 3082, as amended, as follows:

H.R. 3082

Resolved, That the bill from the House of Representatives (H.R. 3082) entitled ''An Act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $3,477,673,000, to remain available until September 30, 2014: Provided, That of this amount, not to exceed $191,573,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $3,548,771,000, to remain available until September 30, 2014: Provided, That of this amount, not to exceed $176,896,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,213,539,000, to remain available until September 30, 2014, of which $9,800,000 shall be for an Aircraft Fuel Systems Maintenance Dock at Columbus AFB, Mississippi: Provided, That of this amount, not to exceed $106,918,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $3,069,114,000, to remain available until September 30, 2014: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided further, That of the amount appropriated, not to exceed $142,942,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $497,210,000, to remain available until September 30, 2014: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $297,661,000, to remain available until September 30, 2014: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the

training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $379,012,000, to remain available until September 30, 2014: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, NAVY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $64,124,000, to remain available until September 30, 2014: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $47,376,000, to remain available until September 30, 2014: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, $276,314,000, to remain available until expended: Provided, That of the amount appropriated, not to exceed $41,400,000 shall be available for the United States share of the planning, design and construction of a new North Atlantic Treaty Organization headquarters.

FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $273,236,000, to remain available until September 30, 2014: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $523,418,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $146,569,000, to remain available until September 30, 2014: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $368,540,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $66,101,000, to remain available until September 30, 2014: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $502,936,000.

FAMILY HOUSING CONSTRUCTION, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, $2,859,000, to remain available until September 30, 2014: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $49,214,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, $2,600,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

HOMEOWNERS ASSISTANCE FUND

For the Homeowners Assistance Fund established by section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), as amended by section 1001 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 194), $373,225,000, to remain available until expended.

CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, $151,541,000, to remain available until September 30, 2014, which shall be only for the Assembled Chemical Weapons Alternatives program: Provided, That the amounts made available under this heading shall be expended for the projects and activities, and in the amounts specified, under this heading in the Committee recommendations and detail tables, including the table entitled ''Military Construction Projects Listing by Location'' in the report accompanying this Act.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $421,768,000, to remain available until expended.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $7,479,498,000, to remain available until expended: Provided, That the Department of Defense shall notify the Committees on Appropriations of both Houses of Congress 14 days prior to obligating an amount for a construction project that exceeds or reduces the amount identified for that project in the most recently submitted budget request for this account by 20 percent or $2,000,000, whichever is less: Provided further, That the previous proviso shall not apply to projects costing less than $5,000,000, except for those projects not previously identified in any budget submission for this account and exceeding the minor construction threshold under 10 U.S.C. 2805.

ADMINISTRATIVE PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds made available in this title for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for

which funds have been made available in annual Acts making appropriations for military construction.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: Provided, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: Provided furtherThat this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(INCLUDING TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. (a) The Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committees on Appropriations of both Houses of Congress, by February 15 of each year, an annual report in unclassified and, if necessary, classified form, on actions taken by the Department of Defense and the Department of State during the previous fiscal year to encourage host countries to assume a greater share of the common defense burden of such countries and the United States.

(b) The report under subsection (a) shall include a description of—

(1) attempts to secure cash and in-kind contributions from host countries for military construction projects;

(2) attempts to achieve economic incentives offered by host countries to encourage private investment for the benefit of the United States Armed Forces;

(3) attempts to recover funds due to be paid to the United States by host countries for assets deeded or otherwise imparted to host countries upon the cessation of United States operations at military installations;

(4) the amount spent by host countries on defense, in dollars and in terms of the percent of gross domestic product (GDP) of the host country; and

(5) for host countries that are members of the North Atlantic Treaty Organization (NATO), the amount contributed to NATO by host countries, in dollars and in terms of the percent of the total NATO budget.

(c) In this section, the term ''host country'' means other member countries of NATO, Japan, South Korea, and United States allies bordering the Arabian Sea.

(INCLUDING TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(INCLUDING TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in ''Family Housing'' accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in ''Military Construction'' accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: Provided, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(INCLUDING TRANSFER OF FUNDS)

SEC. 122. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the accounts established by sections 2906(a)(1) and 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program incurred under 42 U.S.C. 3374(a)(1)(A). Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 123. Funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: Provided, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: Provided further, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 124. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

(INCLUDING TRANSFER OF FUNDS)

SEC. 125. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), unless such a project at a military installation approved for realignment will support a continuing mission

or function at that installation or a new mission or function that is planned for that installation, or unless the Secretary of Defense certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of cancelling such project, or if the project is at an active component base that shall be established as an enclave or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project. The Secretary of Defense may not transfer funds made available as a result of this limitation from any military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress. This section shall not apply to military construction projects, land acquisition, or family housing projects for which the project is vital to the national security or the protection of health, safety, or environmental quality: Provided, That the Secretary of Defense shall notify the congressional defense committees within seven days of a decision to carry out such a military construction project.

(INCLUDING TRANSFER OF FUNDS)

SEC. 126. During the 5-year period after appropriations available in this Act to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation ''Foreign Currency Fluctuations, Construction, Defense'', to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 127. Amounts appropriated or otherwise made available in an account funded under the headings in this title may be transferred among projects and activities within that account in accordance with the reprogramming guidelines for military construction and family housing construction contained in the report accompanying this Act, and in the guidance for military construction reprogrammings and notifications contained in Department of Defense Financial Management Regulation 7000.14–R, Volume 3, Chapter 7, of December 1996, as in effect on the date of enactment of this Act.

SEC. 128. (a) During each of fiscal years 2010 through 2014, the Secretary of Defense shall submit to the congressional defense committees a report analyzing alternative designs for any major construction projects requested in that fiscal year related to the security of strategic nuclear weapons facilities.

(b) The report shall examine, with regard to each alternative—

(1) the costs, including full life cycle costs; and

(2) the benefits, including security enhancements.

SEC. 129. Not later than each of April 15, 2010, July 15, 2010, and October 15, 2010, the Secretary of Defense shall submit to the congressional defense committees a consolidated report from each of the military departments and Defense agencies identifying, by project and dollar amount, bid savings resulting from cost and scope variations pursuant to section 2853 of title 10, United States Code, exceeding 25 percent of the appropriated amount for military construction projects funded by this Act, the Supplemental Appropriations Act, 2009 (Public Law 111–32), and the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110–329), including projects funded through the regular military construction accounts, the Department of Defense Base Closure Account 2005, and the overseas contingency operations military construction accounts.

SEC. 130. (a) Of the funds appropriated or otherwise made available by this title under the heading ''DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT, 2005'', $450,000 shall be available for the Secretary of Defense to enter into an arrangement with the National Academy of Sciences to conduct a study through the Transportation Research Board of Federal funding of transportation improvements to accommodate installation growth associated with the 2005 Defense Base Closure and Realignment (BRAC) program.

(b) The study conducted pursuant to subsection (a) shall—

(1) examine case studies of congestion caused on metropolitan road and transit facilities when BRAC requirements cause shifts in personnel to occur faster than facilities can be improved through the usual State and local processes;

(2) review the criteria used by the Defense Access Roads (DAR) program for determining the eligibility of transportation projects and the appropriate Department of Defense share of public highway and transit improvements in BRAC cases;

(3) assess the adequacy of current Federal surface transportation and Department of Defense programs that fund highway and transit improvements in BRAC cases to mitigate transportation impacts in urban areas with preexisting traffic congestion and saturated roads;

(4) identify promising approaches for funding road and transit improvements and streamlining transportation project approvals in BRAC cases; and

(5) provide recommendations for modifications of current policy for the DAR and Office of Economic Adjustment programs, including funding strategies, road capacity assessments, eligibility criteria, and other government policies and programs the National Academy of Sciences may identify, to mitigate the impact of BRAC-related installation growth on preexisting urban congestion.

(c) The Secretary of Defense shall enter into an arrangement with the National Academy of Sciences to provide the study conducted pursuant to subsection (a) by not later than 45 days after the date of the enactment of the Act.

(d)(1) Not later than May 15, 2010, the National Academy of Sciences shall provide an interim report of its findings to the Secretary of Defense and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

(2) Not later than January 31, 2011, the National Academy of Sciences shall provide a final report of its findings to the Secretary of Defense and the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

SEC. 131. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, AIR FORCE'' is hereby increased by $37,500,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, AIR FORCE'', as increased by paragraph (1), $37,500,000 shall be available for construction of an Unmanned Aerial System Field Training Complex at Holloman Air Force Base, New Mexico.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110–329; 122 Stat. 3692) under the heading ''MILITARY CONSTRUCTION, AIR FORCE'' and available for the purpose of Unmanned Aerial System Field Training facilities construction, $38,500,000 is hereby rescinded.

SEC. 132. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'' is hereby increased by $68,500,000, with the amount of such increase to remain available until September 30, 2014.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'', as increased by paragraph (1), $68,500,000 shall be available for the construction of an Aegis Ashore Test Facility at the Pacific Missile Range Facility, Hawaii.

(b) Of the amount appropriated or otherwise made available by title I of the Military Construction and Veterans Affairs Appropriations Act, 2009 (division E of Public Law 110–329; 122 Stat. 3692) under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'' and available for the purpose of European Ballistic Missile Defense program construction, $69,500,000 is hereby rescinded.

TITLE II

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by section 107 and chapters 11, 13, 18, 51, 53, 55, and 61 of title 38, United States Code; pension benefits to or on behalf of veterans as authorized by chapters 15, 51, 53, 55, and 61 of title 38, United States Code; and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of title IV of the Servicemembers Civil Relief Act (50 U.S.C. App. 541 et seq.) and for other benefits as authorized by sections 107, 1312, 1977, and 2106, and chapters 23, 51, 53, 55, and 61 of title 38, United States Code, $47,218,207,000, to remain available until expended: Provided, That not to exceed $29,283,000 of the amount appropriated under this heading shall be reimbursed to ''General operating expenses'', ''Medical support and compliance'', and ''Information technology systems'' for necessary expenses in implementing the provisions of chapters 51, 53, and 55 of title 38, United States Code, the funding source for which is specifically provided as the ''Compensation and pensions'' appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to ''Medical care collections fund'' to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by chapters 21, 30, 31, 33, 34, 35, 36, 39, 51, 53, 55, and 61 of title 38, United States Code, $8,663,624,000, to remain available until expended: Provided, That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under subsection (a) of section 3104 of title 38, United States Code, other than under paragraphs (1), (2), (5), and (11) of that subsection, shall be charged to this account.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapters 19 and 21, $49,288,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by subchapters I through III of chapter 37 of title 38, United States Code: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional

Budget Act of 1974: Provided further, That during fiscal year 2010, within the resources available, not to exceed $500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $165,082,000.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $29,000, as authorized by chapter 31 of title 38, United States Code: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed $2,298,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $328,000, which may be paid to the appropriation for ''General operating expenses''.

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program authorized by subchapter V of chapter 37 of title 38, United States Code, $664,000.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by subchapter VI of chapter 20 of title 38, United States Code, not to exceed $750,000 of the amounts appropriated by this Act for ''General operating expenses'' and ''Medical support and compliance'' may be expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of healthcare employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; $34,704,500,000, plus reimbursements: Provided, That of the funds made available under this heading, not to exceed $1,600,000,000 shall be available until September 30, 2011: Provided further, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income, or have special needs: Provided further, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: Provided further, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: Provided further, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: Provided further, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of $15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

MEDICAL SUPPORT AND COMPLIANCE

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); $5,100,000,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2011.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, $4,849,883,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2011: Provided, That $100,000,000 for non-recurring maintenance provided under this heading shall be allocated in a manner not subject to the Veterans Equitable Resource Allocation.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code, $580,000,000, plus reimbursements, to remain available until September 30, 2011.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; hire of passenger motor vehicles; and repair, alteration or improvement of facilities under the jurisdiction of the National Cemetery Administration, $250,000,000, of which not to exceed $24,200,000 shall be available until September 30, 2011.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of Department-Wide capital planning, management and policy activities, uniforms, or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, $2,086,251,000: Provided, That expenses for services and assistance authorized under paragraphs (1), (2), (5), and (11) of section 3104(a) of title 38, United States Code, that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: Provided further, That the Veterans Benefits Administration shall be funded at not less than $1,689,207,000: Provided further, That of the funds made available under this heading, not to exceed $111,000,000 shall be available for obligation until September 30, 2011: Provided further, That from the funds made available under this heading, the Veterans Benefits Administration may purchase (on a one-for-one replacement basis only) up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

INFORMATION TECHNOLOGY SYSTEMS

For necessary expenses for information technology systems and telecommunications support, including developmental information systems and operational information systems; for pay and associated costs; and for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by section 3109 of title 5, United States Code, $3,307,000,000, plus reimbursements, to be available until September 30, 2011: Provided, That not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a reprogramming base letter which sets forth, by project, the Operations and Maintenance and Salaries and Expenses costs to be carried out utilizing amounts made available by this heading: Provided further, That of the amounts appropriated, $800,485,000 may not be obligated or expended until the Secretary of Veterans Affairs or the Chief Information Officer of the Department of Veterans Affairs submits to the Committees on Appropriations of both Houses of Congress a certification of the amounts, in parts or in full, to be obligated and expended for each development project: Provided further, That amounts specified in the certification with respect to development projects under the preceding proviso shall be incorporated into the reprogramming base letter with respect to development projects funded using amounts appropriated by this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, to include information technology, in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $109,000,000, of which $6,000,000 shall be available until September 30, 2011.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, construction management services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, or where funds for a project were made available in a previous major project appropriation, $1,194,000,000, to remain available until expended, of which $16,000,000 shall be to make reimbursements as provided in section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) for claims paid for contract disputes: Provided, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, including portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund, including needs assessments which may or may not lead to capital investments, and funds provided for the purchase of

land for the National Cemetery Administration through the land acquisition line item, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 2010, for each approved project shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2010; and (2) by the awarding of a construction contract by September 30, 2011: Provided further, That the Secretary of Veterans Affairs shall promptly submit to the Committees on Appropriations of both Houses of Congress a written report on any approved major construction project for which obligations are not incurred within the time limitations established above.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities, including parking projects, under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, $685,000,000, to remain available until expended, along with unobligated balances of previous ''Construction, minor projects'' appropriations which are hereby made available for any project where the estimated cost is equal to or less than the amount set forth in such section: Provided, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify, or alter existing hospital, nursing home, and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131 through 8137 of title 38, United States Code, $115,000,000, to remain available until expended.

GRANTS FOR CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to assist States in establishing, expanding, or improving State veterans cemeteries as authorized by section 2408 of title 38, United States Code, $42,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for fiscal year 2010 for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' may be transferred as necessary to any other of the mentioned appropriations: Provided, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and such Committees issue an approval, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. Amounts made available for the Department of Veterans Affairs for fiscal year 2010, in this Act or any other Act, under the ''Medical services'', ''Medical support and compliance'' and ''Medical facilities'' accounts may be transferred between the accounts to the extent necessary to implement the restructuring of the Veterans Health Administration accounts: Provided, That any transfers between the ''Medical services'' and ''Medical support and compliance'' accounts of 1 percent or less of the total amount appropriated to the account in this or any other Act may take place subject to notification from the Secretary of Veterans Affairs to the Committees on Appropriations of both Houses of Congress of the amount and purpose of the transfer: Provided further, That any transfers between the ''Medical services'' and ''Medical support and compliance'' accounts in excess of 1 percent, or exceeding the cumulative 1 percent for the fiscal year, may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued: Provided further, That any transfer to or from the ''Medical facilities'' account may take place only after the Secretary requests from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

SEC. 203. Appropriations available in this title for salaries and expenses shall be available for services authorized by section 3109 of title 5, United States Code, hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefore, as authorized by sections 5901 through 5902 of title 5, United States Code.

SEC. 204. No appropriations in this title (except the appropriations for ''Construction, major projects'', and ''Construction, minor projects'') shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 205. No appropriations in this title shall be available for hospitalization or examination of any persons (except beneficiaries entitled to such hospitalization or examination under the laws providing such benefits to veterans, and persons receiving such treatment under sections 7901 through 7904 of title 5, United States Code, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)), unless reimbursement of the cost of such hospitalization or examination is made to the ''Medical services'' account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 206. Appropriations available in this title for ''Compensation and pensions'', ''Readjustment benefits'', and ''Veterans insurance and indemnities'' shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2009.

SEC. 207. Appropriations available in this title shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from sections 3328(a), 3334, and 3712(a) of title 31, United States Code, except that if such obligations are from trust fund accounts they shall be payable only from ''Compensation and pensions''.

(INCLUDING TRANSFER OF FUNDS)

SEC. 208. Notwithstanding any other provision of law, during fiscal year 2010, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the ''General operating expenses'' and ''Information technology systems'' accounts for the cost of administration of the insurance programs financed through those accounts: Provided, That reimbursement shall be made only from the surplus earnings accumulated in such an insurance program during fiscal year 2010 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: Provided further, That if the cost of administration of such an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: Provided further, That the Secretary shall determine the cost of administration for fiscal year 2010 which is properly allocable to the provision of each such insurance program and to the provision of any total disability income insurance included in that insurance program.

SEC. 209. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 210. Funds available in this title or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management of the Department of Veterans Affairs and the Office of Employment Discrimination Complaint Adjudication under section 319 of title 38, United States Code, for all services provided at rates which will recover actual costs but not exceed $34,158,000 for the Office of Resolution Management and $3,278,000 for the Office of Employment and Discrimination Complaint Adjudication: Provided, That payments may be made in advance for services to be furnished based on estimated costs: Provided further, That amounts received shall be credited to the ''General operating expenses'' and ''Information technology systems'' accounts for use by the office that provided the service.

SEC. 211. No appropriations in this title shall be available to enter into any new lease of real property if the estimated annual rental is more than $1,000,000 unless the Secretary submits a report which the Committees on Appropriations of both Houses of Congress approve within 30 days following the date on which the report is received.

SEC. 212. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: Provided, That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: Provided further, That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 213. Notwithstanding any other provision of law, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the ''Construction, major projects'' and ''Construction, minor projects'' accounts and be used for construction (including site acquisition and disposition), alterations, and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in ''Construction, major projects'' and ''Construction, minor projects''.

SEC. 214. Amounts made available under ''Medical services'' are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the Department.

(INCLUDING TRANSFER OF FUNDS)

SEC. 215. Such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to ''Medical services'', to remain available until expended for the purposes of that account: Provided, That, for fiscal year 2010, $200,000,000 deposited in the Department of Veterans Affairs Medical Care Collections Fund shall be transferred to ''Medical Facilities'', to remain available until expended, for non-recurring maintenance at existing Veterans Health Administration medical facilities: Provided further, That the allocation of amounts transferred to ''Medical Facilities'' under the preceding proviso shall not be subject to the Veterans Equitable Resource Allocation formula.

SEC. 216. The Secretary of Veterans Affairs may enter into agreements with Community Health Centers in rural Alaska, Indian tribes and tribal organizations which are party to the Alaska Native Health Compact with the Indian Health Service, and Indian tribes and tribal organizations serving rural Alaska which have entered into contracts with the Indian Health Service under the Indian Self Determination and Educational Assistance Act, to provide healthcare, including behavioral health and dental care. The Secretary shall require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary. The term ''rural Alaska'' shall mean those lands sited within the external boundaries of the Alaska Native regions specified in sections 7(a)(1)–(4) and (7)–(12) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1606), and those lands within the Alaska Native regions specified in sections 7(a)(5) and 7(a)(6) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1606), which are not within the boundaries of the Municipality of Anchorage, the Fairbanks North Star Borough, the Kenai Peninsula Borough or the Matanuska Susitna Borough.

(INCLUDING TRANSFER OF FUNDS)

SEC. 217. Such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to section 8118 of title 38, United States Code, may be transferred to the ''Construction, major projects'' and ''Construction, minor projects'' accounts, to remain available until expended for the purposes of these accounts.

SEC. 218. None of the funds made available in this title may be used to implement any policy prohibiting the Directors of the Veterans Integrated Services Networks from conducting outreach or marketing to enroll new veterans within their respective Networks.

SEC. 219. The Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a quarterly report on the financial status of the Veterans Health Administration.

(INCLUDING TRANSFER OF FUNDS)

SEC. 220. Amounts made available under the ''Medical services'', ''Medical support and compliance'', ''Medical facilities'', ''General operating expenses'', and ''National Cemetery Administration'' accounts for fiscal year 2010, may be transferred to or from the ''Information technology systems'' account: Provided, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

SEC. 221. Amounts made available for the ''Information technology systems'' account may be transferred between projects: Provided, That no project may be increased or decreased by more than $1,000,000 of cost prior to submitting a request to the Committees on Appropriations of both Houses of Congress to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 222. Any balances in prior year accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors shall be transferred to and merged with amounts available under the ''Compensation and pensions'' account, and receipts that would otherwise be credited to the accounts established for the payment of benefits under the Reinstated Entitlement Program for Survivors program shall be credited to amounts available under the ''Compensation and pensions'' account.

SEC. 223. The Department shall continue research into Gulf War illness at levels not less than those made available in fiscal year 2009, within available funds contained in this Act.

SEC. 224. (a) Upon a determination by the Secretary of Veterans Affairs that such action is in the national interest, and will have a direct benefit for veterans through increased access to treatment, the Secretary of Veterans Affairs may transfer not more than $5,000,000 to the Secretary of Health and Human Services for the Graduate Psychology Education Program, which includes treatment of veterans, to support increased training of psychologists skilled in the treatment of post-traumatic stress disorder, traumatic brain injury, and related disorders.

(b) The Secretary of Health and Human Services may only use funds transferred under this section for the purposes described in subsection (a).

(c) The Secretary of Veterans Affairs shall notify Congress of any such transfer of funds under this section.

SEC. 225. None of the funds appropriated or otherwise made available by this Act or any other Act for the Department of Veterans Affairs may be used in a manner that is inconsistent with—

(1) section 842 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 (Public Law 109–115; 119 Stat. 2506); or

(2) section 8110(a)(5) of title 38, United States Code.

SEC. 226. Of the amounts made available to the Department of Veterans Affairs for fiscal year 2010, in this Act or any other Act, under the ''Medical Facilities'' account for non-recurring maintenance, not more than 20 percent of the funds made available shall be obligated during the last 2 months of the fiscal year: Provided, That the Secretary may waive this requirement after providing written notice to the Committees on Appropriations of both Houses of Congress.

SEC. 227. Section 1925(d)(3) of title 38, United States Code, is amended by striking ''appropriation 'General Operating Expenses, Department of Veterans Affairs' '', and inserting ''appropriations for 'General Operating Expenses and Information Technology Systems, Department of Veterans Affairs' ''.

SEC. 228. Section 1922(a) of title 38, United States Code, is amended by striking ''(5) administrative costs to the Government for the costs of'', and inserting ''(5) administrative support performed by General Operating Expenses and Information Technology Systems, Department of Veterans Affairs, for''.

SEC. 229. (a) ADDITIONAL AMOUNT FOR STATE VETERANS CEMETERIES.—The amount appropriated by this title under the heading ''GRANTS FOR CONSTRUCTION OF STATE VETERANS CEMETERIES'' is hereby increased by $4,000,000.

(b) OFFSET.—The amount appropriated or otherwise made available by this title under the heading ''GENERAL OPERATING EXPENSES'' is hereby decreased by $4,000,000.

SEC. 230. (a)(1)(A) Of the amount made available by this title for the Veterans Health Administration under the heading ''MEDICAL SERVICES'', $1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health care providers working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care providers shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(2)(A) Of the amount made available by this title for the Veterans Health Administration under the heading ''MEDICAL SUPPORT AND COMPLIANCE'', $1,500,000 shall be available to allow the Secretary of Veterans Affairs to offer incentives to qualified health care administrators working in underserved rural areas designated by the Veterans Health Administration, in addition to amounts otherwise available for other pay and incentives.

(B) Health care administrators shall be eligible for incentives pursuant to this paragraph only for the period of time that they serve in designated areas.

(b) Not later than March 31, 2010, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives a report detailing the number of new employees receiving incentives under the pilot program established pursuant to this section, describing the potential for retaining those employees, and explaining the structure of the program.

SEC. 231. (a) NAMING OF HEALTH CARE CENTER.—Effective October 1, 2010, the North Chicago Veterans Affairs Medical Center located in Lake County, Illinois, shall be known and designated as the ''Captain James A. Lovell Federal Health Care Center''.

(b) REFERENCES.—Any reference to the medical center referred to in subsection (a) in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Captain James A. Lovell Federal Health Care Center.

SEC. 232. Section 315(b) of title 38, United States Code, is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

SEC. 233. Of the amount appropriated or otherwise made available by this title under the heading ''MEDICAL SERVICES'', $150,000,000 may be available for the grant program under section 2011 of title 38, United States Code, and per diem payments under section 2012 of such title.

SEC. 234. Of the amounts appropriated or otherwise made available by this title for the Department of Veterans Affairs, up to $5,000,000 may be available for the study required by section 1077 of the National Defense Authorization Act for Fiscal Year 2010.

SEC. 235. (a) CAMPUS OUTREACH AND SERVICES FOR MENTAL HEALTH AND NEUROLOGICAL CONDITIONS.—Of the amounts appropriated or otherwise made available by this title, $5,000,000 may be available to conduct outreach to and provide services at institutions of higher education to ensure that veterans enrolled in programs of education at such institutions have information on and access to care and services for neurological and psychological issues.

(b) SUPPLEMENT NOT SUPPLANT.—The amount described in subsection (a) for the purposes described in such subsection is in addition to amounts otherwise appropriated or made available for readjustment counseling and related mental health services.

SEC. 236. In administering section 51.210(d) of title 38, Code of Federal Regulations, the Secretary of Veterans Affairs may permit a State home to provide services to, in addition to non-veterans described in such section, a non-veteran any of whose children died while serving in the Armed Forces, as long as such services are not denied to a qualified veteran seeking such services.

SEC. 237. (a) DESIGNATION OF ROBLEY REX DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.—The Department of Veterans Affairs Medical Center in Louisville, Kentucky, and any successor to such medical center, shall after the

date of the enactment of this Act be known and designated as the ''Robley Rex Department of Veterans Affairs Medical Center''.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Robley Rex Department of Veterans Affairs Medical Center.

SEC. 238. (a) ADDITIONAL AMOUNT FOR HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS AND HOUSING ASSISTANCE AND SUPPORTIVE SERVICES.—The amount appropriated by this title under the heading ''MEDICAL SERVICES'' under the heading ''VETERANS HEALTH ADMINISTRATION'' is increased by $750,000, with the amount of the increase to be available for the following:

(1) The grant program under section 2011 of title 38, United States Code.

(2) Per diem payments under section 2012 of such title.

(3) Housing assistance and supportive services under subchapter V of chapter 20 of such title.

(b) OFFSET.—The amount appropriated or otherwise made available by this title under the heading ''GENERAL OPERATING EXPENSES'' under the heading ''DEPARTMENTAL ADMINISTRATION'' is decreased by $750,000.

SEC. 239. (a) MODIFICATION ON RESTRICTION OF ALIENATION OF CERTAIN REAL PROPERTY IN GULFPORT, MISSISSIPPI.—Section 2703(b) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 469), as amended by section 231 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2009 (division E of Public Law 110–329; 122 Stat. 3713), is further amended by inserting after ''the City of Gulfport'' the following: '', or its urban renewal agency,''.

(b) MEMORIALIZATION OF MODIFICATION.—The Secretary of Veterans Affairs shall take appropriate actions to modify the quitclaim deeds executed to effectuate the conveyance authorized by section 2703 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 in order to accurately reflect and memorialize the amendment made by subsection (a).

SEC. 240. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION, MINOR PROJECTS'' is hereby increased by $50,000,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION, MINOR PROJECTS'', as increased by paragraph (1), $50,000,000 shall be available for renovation of Department of Veterans Affairs buildings for the purpose of converting unused structures into housing with supportive services for homeless veterans.

(b) The amount appropriated or otherwise made available by title I under the heading ''HOMEOWNERS ASSISTANCE FUND'' is hereby reduced by $50,000,000.

SEC. 241. Of the amounts appropriated or otherwise made available by this title, the Secretary shall award $5,000,000 in competitively-awarded grants to State and local government entities or their designees with a demonstrated record of serving veterans to conduct outreach to ensure that veterans in under-served areas receive the care and benefits for which they are eligible.

SEC. 242. (a) STUDY ON CAPACITY OF DEPARTMENT OF VETERANS AFFAIRS TO ADDRESS COMBAT STRESS IN WOMEN VETERANS.—The Inspector General of the Department of Veterans Affairs shall carry out a study to assess the capacity of the Department of Veterans Affairs to address combat stress in women veterans.

(b) ELEMENTS.—In carrying out the study required by subsection (a), the Inspector General shall consider the following:

(1) Whether women veterans are properly evaluated by the Department for post-traumatic stress disorder (PTSD), military-related sexual trauma, traumatic brain injury (TBI), and other combat-related conditions.

(2) Whether women veterans with combat stress are being properly adjudicated as service-connected disabled by the Department for purposes of veterans disability benefits for combat stress.

(3) Whether the Veterans Benefits Administration has developed and disseminated to personnel who adjudicate disability claims reference materials that thoroughly and effectively address the management of claims of women veterans involving military-related sexual trauma.

(4) The feasibility and advisability of requiring training and testing on military-related sexual trauma matters as part of a certification of Veterans Benefits Administration personnel who adjudicate disability claims involving post-traumatic stress disorder.

(5) Such other matters as the Inspector General considers appropriate.

(c) REPORTS.—

(1) INTERIM REPORT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General shall submit to the Secretary of Veterans Affairs, and to the appropriate committees of Congress, a report setting forth the plan of the Inspector General for the study required by subsection (a), together with such interim findings as the Inspector General has made as of the date of the report as a result of the study.

(2) FINAL REPORT.—Not later than one year after the date of the enactment of this Act, the Inspector General shall submit to the Secretary, and Congress, then the Secretary shall make recommendations for legislative or administrative action.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committees on Appropriations and Veterans' Affairs of the Senate; and

(B) the Committees on Appropriations and Veterans' Affairs of the House of Representatives.

SEC. 243. (a) STUDY ON IMPROVEMENTS TO INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDED TO FURNISH HEALTH CARE SERVICES TO VETERANS USING TELEHEALTH PLATFORMS.—The Secretary of Veterans Affairs shall carry out a study to identify the improvements to the infrastructure of the Department of Veterans Affairs that are required to furnish health care services to veterans using telehealth platforms.

(b) AVAILABILITY OF FUNDS.—The amounts appropriated or otherwise made available by this title under the headings ''DEPARTMENTAL ADMINISTRATION'' and ''INFORMATION TECHNOLOGY SYSTEMS'' shall be available to the Secretary of Veterans Affairs to carry out the study required by subsection (a).

SEC. 244. Of the amounts appropriated or otherwise made available by this title under the headings ''VETERANS HEALTH ADMINISTRATION'' and ''MEDICAL SERVICES'', $1,000,000 may be available for education debt reduction under subchapter VII of chapter 76 of title 38, United States Code, for mental health care professionals who agree to employment at the Department of Veterans Affairs.

TITLE III

RELATED AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one-for-one replacement basis only) and hire of passenger motor vehicles; not to exceed $7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, $63,549,000, to remain available until expended.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, such sums as may be necessary, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by sections 7251 through 7298 of title 38, United States Code, $27,115,000, of which $1,820,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $37,200,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the Lease of Department of Defense Real Property for Defense Agencies account.

Funds appropriated under this Act may be provided to Arlington County, Virginia, for the relocation of the federally owned water main at Arlington National Cemetery making additional land available for ground burials.

ARMED FORCES RETIREMENT HOME

TRUST FUND

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington, District of Columbia, and the Armed Forces Retirement Home—Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $134,000,000, of which $72,000,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington, District of Columbia, and the Armed Forces Retirement Home—Gulfport, Mississippi.

TITLE IV

OVERSEAS CONTINGENCIES OPERATIONS

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $924,484,000, to remain available until September 30, 2012: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $474,500,000, to remain available until September 30, 2012: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

ADMINISTRATIVE PROVISION

SEC. 401. (a)(1) The amount appropriated or otherwise made available by this title under the

heading ''MILITARY CONSTRUCTION, ARMY'' and available for a dining hall project at Forward Operating Base Dwyer is hereby increased by $4,400,000.

(2) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, ARMY'' and available for a dining hall project at Forward Operating Base Maywand is hereby reduced by $4,400,000.

(b)(1) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, ARMY'' and available for a dining hall project at Forward Operating Base Wolverine is hereby increased by $2,150,000.

(2) The amount appropriated or otherwise made available by this title under the heading ''MILITARY CONSTRUCTION, ARMY'' and available for a dining hall project at Forward Operating Base Tarin Kowt is hereby reduced by $2,150,000.

SEC. 402. Amounts appropriated or otherwise made available by this title are designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a)(1) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

TITLE V

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of healthcare employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; $37,136,000,000, plus reimbursements, which shall become available on October 1, 2010, and shall remain available through September 30, 2011: Provided, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income, or have special needs: Provided further, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: Provided further, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: Provided further, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: Provided further, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of $15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

MEDICAL SUPPORT AND COMPLIANCE

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); $5,307,000,000, plus reimbursements, which shall become available on October 1, 2010, and shall remain available through September 30, 2011.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, $5,740,000,000, plus reimbursements, which shall become available on October 1, 2010, and shall remain available through September 30, 2011.

TITLE VI

GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 602. Such sums as may be necessary for fiscal year 2010 for pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 603. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 604. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before Congress, except in presentation to Congress itself.

SEC. 605. All departments and agencies funded under this Act are encouraged, within the limits of the existing statutory authorities and funding, to expand their use of ''E-Commerce'' technologies and procedures in the conduct of their business practices and public service activities.

SEC. 606. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this or any other appropriations Act.

SEC. 607. Unless stated otherwise, all reports and notifications required by this Act shall be submitted to the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

SEC. 608. (a) Notwithstanding any other provision of this Act and except as provided in subsection (b), any report required to be submitted by a Federal agency or department to the Committee on Appropriations of either the Senate or the House of Representatives in this Act shall be posted on the public website of that agency upon receipt by the committee.

(b) Subsection (a) shall not apply to a report if—

(1) the public posting of the report compromises national security; or

(2) the report contains proprietary information.

SEC. 609. None of the funds made available under this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

This Act may be cited as the ''Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2010''.

AMERICAN EDUCATION WEEK

Ms. CANTWELL. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. Res. 353 and the Senate proceed to its immediate consideration.

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. 353) supporting the goals and ideals of ''American Education Week.''

There being no objection, the Senate proceeded to consider the resolution.

Ms. CANTWELL. 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 statement related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 353) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 353

Whereas the National Education Association has designated November 15 through November 21, 2009, as the 88th annual observance of ''American Education Week'';

Whereas public schools are the backbone of democracy in the United States, providing young people with the tools needed to maintain the precious values of freedom, civility, and equality in our Nation;

Whereas by equipping young people in the United States with both practical skills and broader intellectual abilities, public schools give young people hope for, and access to, a productive future;

Whereas people working in the field of public education, including teachers, higher education faculty and staff, custodians, substitute educators, bus drivers, clerical workers, food service professionals, workers in skilled trades, health and student service workers, security guards, technical employees, and librarians, work tirelessly to serve children and communities throughout the Nation with care and professionalism; and

Whereas public schools are community linchpins, bringing together adults, children, educators, volunteers, business leaders, and elected officials in a common enterprise: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of ''American Education Week''; and

(2) encourages the people of the United States to observe ''American Education Week'' by reflecting on the positive impact of all those who work together to educate children.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader,

pursuant to Public Law 105–83, announces the appointment of the following individual to serve as a member of the National Council of the Arts: the Honorable CLAIRE MCCASKILL of Missouri.

ORDERS FOR THURSDAY, NOVEMBER 19, 2009

Ms. CANTWELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, November 19; 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 the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate proceed to the consideration of Calendar No. 190, S. 1963, the Caregivers and Veterans Omnibus Health Services Act Of 2009, as provided for under the previous order.

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

PROGRAM

Ms. CANTWELL. Mr. President, at 2:30 p.m. tomorrow the Senate will proceed to a series of three rollcall votes. The votes will be on the confirmation of the nomination of David Hamilton to be a U.S. circuit judge for the Seventh Circuit; in relation to the Coburn amendment No. 2785, relating to spending priorities; and passage of S. 1963, the Caregivers and Veterans Omnibus Health Services Act, as amended, if amended.

Finally, I ask unanimous consent that following the remarks of Senator SESSIONS, Senator HARKIN, and Senator ALEXANDER, the Senate adjourn under the previous order.

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

The Senator from Alabama is recognized.

NOMINATION OF DAVID HAMILTON

Mr. SESSIONS. Mr. President, I thank Senator CANTWELL. I appreciate her courtesy. I just want to share a few remarks tonight.

We are now postcloture on the nomination of Judge David Hamilton to the circuit court of appeals. Cloture is a procedure in the Senate generally used to end a prolonged debate. The majority leader, Senator REID, filed cloture on Judge Hamilton, however, before there had been even 1 hour of debate on the nomination. The cloture motion was filed before I or any of my colleagues had time set aside and had the opportunity to debate this matter.

Judge Hamilton's judicial philosophy and record as a district judge were problematic. There are important matters involved considering the fact that President Obama has nominated him to serve on the Court of Appeals for the Seventh Circuit. It is worthy of serious consideration, this lifetime appointment.

Yesterday, 28 Senators joined me in voting against cloture. I believe they voted no on cloture for a number of reasons. The first is the one I have just mentioned. Cloture is generally reserved to end a prolonged debate, and Senator REID filed cloture without any debate, before debate had really begun.

The second is that Judge Hamilton's judicial philosophy is outside the mainstream—I think well outside the mainstream. As I have said before, if a judge is not committed to following the law whether they like it or not, then that person is not qualified to be a judge. They may be a good advocate, but a judge must, by definition, be impartial.

I think there will be more people voting against Judge Hamilton's nomination than voted against cloture—the 29 who voted yesterday. I think we need to spend some time talking about his record and his judicial philosophy.

I do not have anything against Judge Hamilton. I understand he may be a fine person, and I really mean that. But there is afoot in this country a philosophy of judging, an approach to law that I think is dangerous and strikes at the very heart of the classical American judicial philosophy and legal system that has served us so well. So that is what this is about. If judges have the wrong philosophy as they approach the bench about how they should go about deciding cases, then that can disqualify them.

As Senators, we each have a right to express our opinion on whether we believe a nominee is qualified and should be confirmed or not elevated to a higher court, but the American people expect we will not misrepresent the facts. Let's be fair to this nominee, and let's not in any way misrepresent who he is and what he did and what his philosophy is. I intend to be fair to him. I think any nominee is entitled to that. Even though I might be a critic, I should not be inaccurate in what I say.

In this case, I think the facts have been misrepresented by others, and I want to correct the record on some of the issues, where it has been suggested that I or others have been incorrect or unfair in our criticism. Accuracy goes both ways. If you are for a judge and want to move him forward, OK, let's be accurate. Those who are opposed to him, you must be restrained and accurate also.

Yesterday on the floor of the Senate, the majority leader, Senator REID, invoked the Golden Rule. He said that when he became majority leader, he sought to ''treat [President Bush's] judicial nominees the way they would want them treated if the roles were reversed.''

Let's take a look at the way President Bush's judicial nominees were treated by the Democratic majority. Senator REID complained that Judge Hamilton, the judge before us tonight—tomorrow—waited 166 days for this vote. If Republicans followed Senator REID's version of the Golden Rule, would he have been confirmed earlier? No. Judge Hamilton would have waited at least another year and a half before he received consideration on the Senate floor. That is exactly how President Bush's nominees were treated for the first group of nominees he submitted to the circuit courts.

Priscilla Owen, a fabulous judge at the Supreme Court of Texas, John Roberts, now on the Supreme Court of the United States, and Deborah Cook all waited 2 years before receiving a confirmation vote.

Yesterday Senator REID said:

> It's really unfortunate we have to file cloture on a judge.

Really unfortunate that we have to file cloture on a judge? As if this was something that had never been done before. Indeed, during the Bush administration, cloture had to be filed on at least 17 different judicial nominees because Senator REID was leading filibusters himself. The majority leader complains he could not get a time agreement. But he never offered a reasonable amount of time. I believe there were discussions about 30 hours of debate, which was rejected. Senator REID said he was stunned that some people believed there was not enough time to debate the nomination when no debate had been had.

He accused Republicans of not entering into a time agreement. But as I said Monday, Senator REID has a short memory. When Senator REID was in the middle of filibustering Priscilla Owen, Senator BENNETT made a unanimous consent request that the Senate spend 10 hours more debating the nomination and then vote. Senator REID objected. When Senator BENNETT asked how much time would be sufficient to debate the Priscilla Owen nomination, Senator REID responded by saying:

> [T]here is not a number of [hours] in the universe that would be sufficient.

Later Senator MCCONNELL sought a time agreement on Judge Owen. Senator REID responded by saying:

> We would not agree to a time agreement . . . of any duration.

Yesterday Senator REID said:

> The Democratic majority in the Senate confirmed three times as many nominees [under President Bush] as we have been able to confirm in the same amount of time under President Obama.

Senator REID left out the fact that Democrats filibustered more than three times as many nominees under President Bush. Indeed, there were 30 cloture votes on 17 different judicial nominations during the Bush administration. There were 1,044 total votes

against two filibustered President Bush's nominees. The Democrats, under Senator REID's leadership, cast 99.9 percent of those votes.

Yesterday Senator REID talked about the Senate and the legal precedent and advocated that Republicans follow Senate precedent in judicial confirmations. Ironically, that is exactly what Senate Republicans asked Senator REID to do during the Bush administration. There had been 214 years of precedent of not filibustering judges. Yet Senator REID voted more than 20 times to filibuster President Bush's judges. Everyone knows that in a court of law, you follow the most recent precedent, and the most recent precedent was established last time in the Bush administration by the Democrats in this body.

Yesterday Senator REID also said the following:

> I want to reiterate that every Senator may vote for or against Judge Hamilton's nomination as he or she sees fit. That's what we do here, but that is not the issue before us today. The question before us is whether the President of the United States deserves to have his nomination reviewed by the Senate as the Constitution demands he does.

The fact is that Senator REID did not feel that way about Terrence Boyle who was nominated by President Bush for the Fourth Circuit Court of Appeals and languished for close to 8 years without ever receiving a confirmation vote, even though he passed out of the Senate Judiciary Committee with a majority vote. He did not feel that way about President Bush's nominee, the superb legal mind of Miguel Estrada, unanimously voted well qualified by the American Bar Association. He was filibustered through seven cloture votes and was never confirmed, a fabulous nominee to the court of appeals and one capable of being on any short list for the Supreme Court. Or what about Charles Pickering who was filibustered and never confirmed; Carolyn Kuhl who was filibustered and never confirmed; William Myers who was filibustered and never confirmed; Hanry Saad who was filibustered and never confirmed; William Haynes who was filibustered and never confirmed?

What Senator REID meant to say was: Do not do unto me as I have done unto you. You get it? Do not do unto me as I did to you.

I don't believe Senator REID or President Obama would wish for us to return to the Democratic version of the Golden Rule. I don't believe we intend to do that. Republicans have not held a private retreat to figure out how to change the ground rules and to block President Obama's nominations. That is what the Democrats did. It was reported in the New York Times. We have not taken orders from outside groups to block nominees. We have not blocked nominees because we do not want them to sit on a specific case, and we had some of that in the past. We have not attempted to filibuster a nominee in the Judiciary Committee. We let them go through. That is how President Bush's nominees were treated. I am not exaggerating. I was there. Those are the facts.

I will express my opinion in more detail when I vote against Judge Hamilton. I have a right to do that, as does every Member. But I do not have a right to misrepresent the facts, and I try to be accurate in what I say. If I am in error, I look forward to being corrected. I hope my colleagues will start making an effort to do that.

The way this happened was this: After President Bush was elected, the Democrats met with Marcia Greenberg and Lawrence Tribe and Cass Sunstein. They came up with a new idea. They said: We are going to change the ground rules. We no longer are not going to filibuster, as has been done in the history of the Senate. We are going to do anything we can to block in committee and on the floor good nominees.

We had some fabulous nominees, such as Priscilla Owen, Bill Pryor. These are brilliant lawyers, proven people. They were rated highly by the American Bar Association. There was strong support in their home States and communities. They were blocked for months, even years before they could get a vote. Some got through, and some did not.

My personal view is that the President deserves deference in his nominees. I fully expect and hope to be able to vote for 90 percent of President Obama's nominees. I voted for well over 90 percent of President Clinton's nominees. But I am not a rubberstamp. I am not going to vote for a judge who I believe, by virtue of their stated judicial philosophy, thinks a judge has the right to write footnotes to the Constitution, as Judge Hamilton has said, who blocks legislation for 7 years and has to be finally slapped down hard by the court of appeals because apparently he didn't appreciate the State of Indiana's passage of a law on informed consent. He kept that bottled up for 7 years. And how much Indiana had to spend on legal fees, and how much of the will of the people was frustrated by one unelected, lifetime-appointed judge I do not know, but it was significant.

So those are the issues we will talk about in more detail. But I did want to set the record straight that I do not like not moving forward with a judge and giving them an up-or-down vote, but after the 8 years of President Bush and the repeated filibusters that occurred then, I have to agree with a number of my colleagues that, indeed, the Democrats did successfully change the standard in the Senate. We have to be careful about it. But they changed it to say that a filibuster is legitimate if you believe, according to the Gang of 14, there are extraordinary circumstances.

To me, a person can be honest and have integrity, but if they believe, as a philosophical approach to the law, they have the ability to write footnotes to the Constitution, they have an ability to actually amend the Constitution through their decisions, when the Constitution itself provides only one method to amend the Constitution, then that makes the person one who is not qualified to be on the bench.

So it is a big deal. We love the American legal system. I so truly admire it. It is based on a firm commitment to the rule of law. The oath judges take that they will impartially apply the law—not allow their personal views but impartially do it—that they will do equal justice to the poor and to the rich, that they will serve under the Constitution and laws of the United States—and not above them—that is the essence of it.

I think a judge who cannot follow that oath they must take, one whose philosophy indicates they are not committed to that oath, is not qualified.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, this body often finds itself divided. But today we are united in our respect and affection for the senior Senator from West Virginia, ROBERT BYRD. I join with my colleagues in congratulating him on yet another historic milestone: becoming the longest serving Member of Congress.

But I hasten to add that to salute Senator BYRD only for his remarkable longevity is to really kind of miss the point. The measure of a Senator is not just how many years he or she serves but the quality and the consequences of that service. That is where Senator BYRD has truly distinguished himself in Congress over the last 20,774 days.

The ''Almanac of American Politics'' says, ROBERT BYRD ''may come closer to the kind of Senator the Founding Fathers had in mind than any other.'' I could not agree more. He is a person of wise and mature judgment, a patriot with a deep love of country. He is passionately loyal to the Constitution, and a fierce defender of the role and prerogatives of Congress, the Senate in particular.

Senator BYRD was once asked how many Presidents he has served under. He answered he had not served ''under'' any President, but he has served ''with'' 11 Presidents, as a proud Member of a separate and coequal branch of government.

During his more than 56 years in Congress, Senator BYRD has witnessed many changes. Our population has grown by more than 125 million. There has been an explosion of new technologies. America has grown more prosperous, more diverse, more powerful.

But across those nearly six decades of rapid change, there has been one constant: Senator BYRD's tireless service to his country, his passion for bringing new opportunities to the people of West Virginia, and his dedication to this branch of government, the U.S. Congress, and especially to this House of Congress, the U.S. Senate.

Senator BYRD is a person of many accomplishments and a rich legacy. But,

above all, in my brief time today I want to focus on his commitment to improving K through 12 public education in the United States and expanding access to higher education, especially for those of modest means.

As my colleagues know, ROBERT C. BYRD was raised in the hardscrabble coal fields of West Virginia. His family was poor but rich in faith and values. And his parents nurtured in young ROBERT BYRD a lifelong passion for education and learning.

He was valedictorian of his high school class but too poor to go to college right away. Of course, that was in the days before Pell grants and loans and Byrd Scholarships. So he worked as a shipyard welder and later as a butcher in a coal company town. It took him 12 years to save enough money to even start college.

He was a U.S. Senator when he later earned his law degree. No other Member of Congress before or since has started and completed law school while serving in the Congress.

But degrees do not begin to tell the story of the education of ROBERT BYRD. He is the ultimate lifetime learner. It is like for the last seven decades he has been enrolled in the Robert C. Byrd School of Continuing Education.

Senator BYRD's erudition has borne fruit in no less than nine books he has written and published over the last two decades. We all know that he literally wrote the book on the U.S. Senate—a masterful four-volume history of this institution that was an instant classic that will bear the burdens of time. What my colleagues may not know is that he also authored a highly respected history of the Roman Senate. Now, there are some who think ROBERT BYRD served in the Roman Senate, but that part of the Byrd legend just is not so.

I have talked at length about Senator BYRD's education because this explains why he is so passionate about ensuring every American has access to a quality public education—both K through 12 and higher education.

One thing Senator BYRD and I have in common—and we always kind of talk about it when we get together—is we are the only two Senators whose fathers were actually coal miners. We are both the sons of coal miners, neither of whom had very much formal education. My father only went to the 8th grade. Actually, he only went to the 6th grade, but we will not get into that. But, anyway, he said he went to the 8th grade, but, like I said, I will not get into that. But coming from a poor background, Senator BYRD believes, as I do, that a cardinal responsibility of government is to provide a ladder of opportunity so everyone, no matter how humble their background, has a shot at the American dream.

Obviously, the most important rungs of that ladder of opportunity involve education—beginning with quality K through 12 public schools, and including access to college, vocational education, and other forms of higher education.

During my 25 years in this body, no one has fought harder for public education than Senator ROBERT BYRD. As the longtime chairman and still the senior member of the Appropriations Committee, he has been the champion of education at every turn—fighting to reduce class sizes, improving teacher training, bringing new technologies into the classroom, boosting access to higher education.

In 1985, he created the only national merit-based college scholarship program funded through the U.S. Department of Education. Congress later named them in his honor. Originally, the Byrd Scholarships consisted of a 1-year $1,500 award to outstanding students. Today, Byrd Scholarships provide grants of up to $6,000 over 4 years.

Senator BYRD is a great student of literature, and I am sure he knows The Canterbury Tales—a lot of it, probably, by heart. Describing the Clerk of Oxford, Chaucer might just as well have been describing ROBERT C. BYRD. Chaucer wrote:

> Filled with moral virtue was his speech;
> And gladly would he learn and gladly teach.

Senator BYRD is a great Senator and a great American. He has both written our Nation's history and left his mark on it. It has been an honor to serve with my friend, my longtime chairman, Senator BYRD, for the last 25 years.

Today, as he reaches yet another historic milestone that no other Member of Congress has ever achieved—and I daresay probably no one ever will—we honor his service. And we express our respect and our love for this remarkable U.S. Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

CONGRATULATING SENATOR ROBERT C. BYRD

Mr. ALEXANDER. Mr. President, I am glad I had the opportunity to hear the comments of the Senator from Iowa on Senator BYRD. We all have enormous respect for Senator BYRD. I had a chance this morning to say a word about him and to reflect on, among other things, that when I first came here as a young aide 42 years ago to Senator Baker, Senator BYRD had already been here for 10 years as a Senator.

So it is quite a span of history, and all of us have many stories, including the instructions he would give us to stand behind our desk when we vote, and not work at the table when we preside. He kept order in the Senate, and we are grateful to him for that.

HEALTH CARE REFORM

Mr. ALEXANDER. Mr. President, I would like to say a word about health care. The Democratic leader, Senator REID, today announced that he has completed work on a health care bill. We have been waiting for that. It has been written behind closed doors in Senator REID's office for the last several weeks, so we have not known exactly what might be in it.

We have had two pieces of legislation from the Senate, one written by the HELP Committee, upon which I serve, another one from the Finance Committee. Now a bill has come from the House of Representatives. It has actually been passed there. Now the Democratic majority leader will be bringing forward his version of the bill. The bill seems to grow each time we have a new one—a little faster than the Federal debt grows even. This one seems to be another 2,000-page, trillion-dollar bill.

But the point I want to make tonight is that the American people's response to this work will be what all of ours should be: We want to read the bill. We want to know what it costs. And we want to make sure we have time to understand exactly how it affects the health of each American.

This is the most personal kind of debate we could have about the health of every single American. It affects 17 percent of our economy. It is a dramatic proposal, an enormous amount of money, at a time when our debt has reached $12 trillion. A great many Americans are concerned about Washington, DC, because we do not seem to have a check and a balance on the various proposals for Washington takeovers, more debt, more spending, more taxes. Tonight I would like to do a simple thing, which is not to make a Republican speech but to read a letter, or parts of a letter, and insert it in the RECORD, that was written by eight Democratic Senators on October 6 to Senator REID.

I think their words say a great deal about this bill and about how we should proceed on it. The letter is dated October 6, from eight Democratic Senators. It says, in part:

> Dear Leader REID:
>
> . . . .Whether or not our constituents agree with the direction of the debate, many are frustrated and lacking accurate information on the emerging [health care] proposals in Congress. Without a doubt—

Say these eight Democratic Senators——

> reforming health care in America is one of the most monumental and far-reaching undertakings considered by this body in decades. We believe the American public's participation in this process is critical to our overall success of creating a bill that lowers health care costs and offers access to quality and affordable health care for all Americans.

And then, if I may read a couple more paragraphs from the letter from these eight Democratic Senators to the Democratic leader:

> Every step of the process needs to be transparent, and information regarding the bill needs to be readily available to our constituents before the Senate starts to vote—
>
> ''to vote''——
>
> on legislation that will affect the lives of every American.

The eight Democratic Senators continue:

The legislative text and complete budget scores from the Congressional Budget Office of the health care legislation considered on the Senate floor should be made available on a website the public can access for at least 72 hours prior to the first vote to proceed to the legislation.

Let me read that again. That is not 40 Republicans—although all 40 of us agree with it—this is eight Democratic Senators to the Democratic leader: ''The legislative text,'' No. 1, the ''complete budget scores,'' No. 2, ''from the Congressional Budget Office,'' posted on ''a website,'' No. 3, for ''72 hours'' before ''the first vote to proceed on the legislation.''

The distinguished Democratic leader's announcement was only made a few minutes ago, but my understanding is we do not yet have a complete legislative text. Hopefully, that will come tonight or in the morning.

Second, I understand the estimates from the Congressional Budget Office are preliminary estimates. This letter says: ''complete budget scores.'' We know what a ''complete budget score'' is around here. It was talked about in the Finance Committee debate. The Director of the Congressional Budget Office said a complete estimate of the health care bill would take about 2 weeks to do. So the question is, Do they have it? And then: ''72 hours'' before ''the first vote to proceed.''

So I think the eight Democratic Senators, along with all 40 Republican Senators, have a bipartisan agreement here on how we should start this debate. We want to be able to read it, we want to know what it costs, and we want to see how it affects every American. That means, No. 1, a complete text. No holes, no ''We will get back to you later'' a complete text. No. 2, a complete estimate. Those are these words here: A complete estimate of the cost and how it affects every American. And third, for 72 hours on the Web site so not only we in the Senate but our constituents, the people who expect us to weigh in on this, have a chance to read it before we have our first vote, which I don't think is scheduled.

There is other language here, but I ask unanimous consent that this letter from the eight Democratic Senators of October 6 to the Honorable HARRY REID be included in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. ALEXANDER. Mr. President, the last thing I would say is this: I think it is pretty obvious why we want to read the bill and know what it costs and understand how it affects the health care of every American, which it will, but in case anyone is wondering why we want to read the bill, it is because the bills we have already seen increase insurance premiums, raise taxes, and cut Medicare. That is what we have seen from the two Senate bills and the House bill. We on the Republican side think this ought to be about reducing costs, reducing premiums, but the Democrats' proposals increase premiums, increase taxes, and cut Medicare. Not only does it cut Medicare in the bills we have seen so far by $400 billion or $500 billion; it doesn't spend it on grandma, it spends it on somebody else, even though the Medicare Program, the trustees tell us, will begin to go broke by 2015.

There are some other problems with the bills we have seen before, so we would want to be able to ask these same questions about the new bill we haven't yet seen but we are about to see.

On Medicare, how big are the cuts? Then we hear in this new bill there are Medicare taxes, new Medicare payroll taxes. On which employees or which employers? And if their taxes are raised, are they spent to make Medicare solvent or are they spent on a new program? It is inconceivable to me that we could be even thinking about having savings in Medicare and spending it on something else when Medicare is about to go broke.

Then there are some other questions. The Democratic leader said it doesn't add to the debt. I hope he is right, but we have questions to ask about that. Does his proposal include a full dealing with the issue of physician reimbursement? What we mean by that is when we create these big government programs, then some agency in Washington tells how much we can pay doctors for different services and how much we pay hospitals. Right now, in the government programs we have—Medicare, for example—doctors are only paid about 80 percent of what they are paid for serving the roughly 200 million of us who have private plans. And for those who are in Medicaid—low income; that is the largest government program—it is about 60 percent. Doctors are paid about 60 percent of what they were paid if they saw private physicians. Then, as a result, 50 percent of doctors won't see new people in that Medicaid Program, which is why so many people think: I am not so sure a new government-run program of insurance is such a good idea, because I might end up in it and it might be like Medicaid and 50 percent of the doctors won't see new Medicaid patients.

Why might you end up in a government program if you are not there now? Well, in the other bills we have seen—and this would be a question we have about Senator REID's bill—the combination of sections means that a great many employers are going to look at the bill and the requirements that are placed on them and they are going to write a letter to their employees and say: Congratulations, there is a new government plan. I have sent a check to the government, and instead of having employer insurance, you are in the government plan. Well, you may not have been thinking that was the kind of health reform you wanted.

There is the matter of the States. I will admit that as a former Governor I may be more worried about this than some people, but I see a former mayor in the Presiding Officer's chair today. I won't speak for him, but I know I used to sit back there in Nashville and nothing would make me madder than some Member of Congress coming up with a big idea, pass it into law, issue a press release, take credit for it, and send me the bill when I was Governor. So all of the other bills we have seen say, It is a great idea to expand Medicaid. We are going to dump about 14 million more Americans in this program for low-income Americans and we are going to send the bill for part of it to the State.

Well, our Democratic Governor thinks that is a bad idea, because our State, which is fiscally well managed—Tennessee—and virtually every other State is having the worst time they have had since the Great Depression in managing their resources. Here they have the Medicaid Program going up at 8 percent a year, and they are cutting higher education and other programs. That is what is going on in the States. So we will have to ask the question: How much does this new bill transfer costs to the States?

There are a great many questions we will need to ask, and they are appropriate questions. The Republican leader pointed out that when we did the farm bill, we talked for 4 weeks. We debated, we had amendments, we came to a conclusion, and we had a bipartisan result. When we did No Child Left Behind, it was 7 weeks. I remember on the Energy bill of 2005, which put us on a new direction, Senator BINGAMAN and Senator Domenici and others worked very hard on it, but on the floor it took 8 or 9 weeks. We need to have a full discussion of whatever bill finally comes to the floor, and this may be the bill. It is at least 2,000 pages. It is at least $1 trillion. Maybe it is a good bill. But the American people will have a lot of questions about whether their premiums are going up instead of down, their taxes are going up instead of down; how much are the Medicare cuts—why are they being spent on somebody else instead of the people in Medicare? What about these Medicare payroll taxes? What about new State taxes? Will I lose my insurance? These are big questions and they deserve to be answered.

A good way to start is to take the advice of the eight Democratic Senators who wrote the Democratic leader and said: Before we have our first vote, Mr. Leader, No. 1, we want to see the complete text which we don't yet have; we want to see a complete estimate by the Congressional Budget Office; and we want it to be on the Internet for at least 72 hours—the words were very strong—because we have a duty to the American people that they know how this affects them, because it is a very personal matter.

I thank the President.

EXHIBIT 1

U.S. SENATE,
Washington, DC, October 6, 2009.

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

DEAR LEADER REID: As you know, Americans across our country have been actively engaged in the debate on health care reform. Whether or not our constituents agree with the direction of the debate, many are frustrated and lacking accurate information on the emerging proposals in Congress. Without a doubt, reforming health care in America is one of the most monumental and far-reaching undertakings considered by this body in decades. We believe the American public's participation in this process is critical to our overall success of creating a bill that lowers health care costs and offers access to quality and affordable health care for all Americans.

Every step of the process needs to be transparent, and information regarding the bill needs to be readily available to our constituents before the Senate starts to vote on legislation that will affect the lives of every American. The legislative text and complete budget scores from the Congressional Budget Office (CBO) of the health care legislation considered on the Senate floor should be made available on a website the public can access for at least 72 hours prior to the first vote to proceed to the legislation. Likewise, the legislative text and complete CBO scores of the health care legislation as amended should be made available to the public for 72 hours prior to the vote on final passage of the bill in the Senate. Further, the legislative text of all amendments filed and offered for debate on the Senate floor should be posted on a public website prior to beginning debate on the amendment on the Senate floor. Lastly, upon a final agreement between the House of Representatives and the Senate, a formal conference report detailing the agreement and complete CBO scores of the agreement should be made available to the public for 72 hours prior to the vote on final passage of the conference report in the Senate.

By publically posting the legislation and its CBO scores 72 hours before it is brought to a vote in the Senate and by publishing the text of amendments before they are debated, our constituents will have the opportunity to evaluate these policies and communicate their concerns or their message of support to their Members of Congress. As their democratically-elected representatives in Washington, DC, it is our duty to listen to their concerns and to provide them with the chance to respond to proposals that will impact their lives. At a time when trust in Congress and the U.S. government is unprecedentedly low, we can begin to rebuild the American people's faith in their federal government through transparency and by actively inviting Americans to participate in the legislative process.

We respectfully request that you agree to these principles before moving forward with floor debate of this legislation. We appreciate your serious consideration and look forward to working with you on health care reform legislation in the weeks ahead.

Sincerely,

BLANCHE L. LINCOLN.
MARY L. LANDRIEU.
CLAIRE MCCASKILL.
MARK L. PRYOR.
EVAN BAYH.
JOSEPH I. LIEBERMAN.
BEN NELSON.
JIM WEBB.

The PRESIDING OFFICER. The Senator from Alabama.

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

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

Mr. SESSIONS. Mr. President, I wish to thank Senator ALEXANDER for his remarks because I think I have heard it said that this new health care bill, don't worry about it, it is going to be revenue neutral. But if you create a bill that is revenue neutral by taking hundreds of billions of dollars out of Medicare, which we already know is heading into default in the next 5 or 6 years, and you do it by raising taxes, both of which are to fund a new program that we don't have the money for, then that is not, in my mind, what the average person would say in commonsense thought is revenue neutral.

I think that is what we are talking about. We need to be able to see the details of it. I appreciate Senator ALEXANDER for that fine summary of where we are. I hope our Members will take it to heart.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate will stand adjourned until Thursday, November 19, at 9:30 a.m.

There being no objection, the Senate, at 7:51 p.m., adjourned until Thursday, November 19, 2009, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF COMMERCE

NICOLE YVETTE LAMB-HALE, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE WILLIAM G. SUTTON, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

ARTHUR ALLEN ELKINS, JR., OF MARYLAND, TO BE INSPECTOR GENERAL, ENVIRONMENTAL PROTECTION AGENCY, VICE NIKKI RUSH TINSLEY, RESIGNED

DEPARTMENT OF VETERANS AFFAIRS

ROBERT A. PETZEL, OF MINNESOTA, TO BE UNDER SECRETARY FOR HEALTH OF THE DEPARTMENT OF VETERANS AFFAIRS, VICE MICHAEL J. KUSSMAN, RESIGNED.