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Senate

The Senate met at 10:15 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

Fountain of all light and glory, giving life and light and joy, Your greatness and power continue to amaze us.

Today, guide our Senators with Your abiding love. Keep them brave before their fears, pure in their battle against temptations, and true to the duty You have called them to fulfill. May they seek in their times of need the shadow of Your presence, ready to bless even before they ask You.

Lord, take us all as we are and make us by Your grace what we ought to be.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN 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, March 16, 2010.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will proceed to a period of morning business until 12:30 p.m. Senators will be allowed to speak for up to 10 minutes each, with the time until 10:30 equally divided and controlled between the two leaders or their designees and with the time from 10:30 until 12:30 equally divided, with the majority controlling the first half of that time and the Republicans controlling the second half. The Senate will recess from 12:30 until 2:15 p.m. to allow for the weekly caucus luncheons. When the Senate reconvenes at 2:15, we will resume consideration of H.R. 1586, the FAA reauthorization legislation. Senators should be prepared for rollcall votes this afternoon in relation to amendments to the FAA bill.

The reason I talked about the time equally divided and controlled between Democrats and Republicans, according to how long Senator MCCONNELL might take, it may not be the full 2 hours, but it will be very close.

MEASURE PLACED ON THE CALENDAR—H.R. 2314

Mr. REID. Madam President, I understand that H.R. 2314 is at the desk and is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 2314) to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

Mr. REID. I object to the matter being placed on the calendar.

The ACTING PRESIDENT pro tempore. Objection having been heard, the matter will be placed on the calendar under rule XIV.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE

Mr. MCCONNELL. Madam President, the President recently noted that everything there is to say about health care has already been said. When it comes to the substance of the legislation, this may be true. I suspect that is why an overwhelming majority of Americans oppose it. Americans know exactly what is in this bill, and they have rejected it. They do not want this bill to pass.

But there is still a lot to be said about the process Democrats are using to force this bill through. That won't change whether they get their votes this week or not. The fact is, the die has already been cast on this Congress. Democratic leaders have been imploring Members to make history—make history, they say—by voting for this bill. But this Congress is already guaranteed to go down in history—not for any piece of legislation but for the arrogant way it has dictated to the American people what is best for them and for the ugly way in which it has gone about getting around the will of the American people. Democratic leaders have made it perfectly clear that they view their constituents as an obstacle, particularly on the issue of health care. At every turn, they have

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

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met fierce public opposition, and every time they have tried to come up with a way to get around that fierce public opposition. It has become a vicious cycle: the harder Democrats try to get around the public, the more repellent their proposals become and the more egregious their efforts become to get them through anyway.

We watched last summer as they forced their partisan health care bill through the committees. We watched as they tried to sell it to the public as something other than what it was. We watched as they wrote the final bill behind closed doors, then wheeled and dealed to get the last few votes they needed to squeeze it through both Chambers on a party-line vote. We saw the ''Cornhusker kickback,'' the ''Louisiana purchase,'' ''Gator Aid,'' and all the rest. But as ugly as all this was, as distasteful as all these deals have been, they were child's play—child's play—compared to the scheme they have been cooking up over in the House just this week.

The plan Speaker PELOSI has hatched for getting this bill through is to try to pull the wool over the eyes of the public, and it is jaw-dropping—it is jaw-dropping—in its audacity. Here is their plan: Speaker PELOSI can't get enough of her Democratic majority to vote for the Senate version of the bill, so she and her allies have concocted a way to pass it without actually casting a vote on it. They are concocting a way to pass it without actually casting a vote on it—the so-called Slaughter solution in which the Senate bill is ''deemed'' to have passed. This way, they will claim they never voted for it, even though they will vote to send it to the President for his signature.

This ''scheme and deem'' approach has never been tried on a bill of this scope, according to today's Washington Post. This is how they will try to keep their fingerprints off a bill that forces taxpayers to cover the cost of abortions, cuts Medicare by $½ trillion, raises taxes by $½ trillion, raises insurance premiums, creates a brand new government entitlement program at a time when the entitlement programs we already have are on the verge of bankruptcy, and vastly expands the cost and reach of the Federal Government in Washington at a time when most Americans think government is already entirely too big.

As Speaker PELOSI put it, ''Nobody wants to vote for the Senate bill.'' But anyone who believes they can send this bill to the President without being tarred by it is absolutely delusional. Anybody who thinks this is a good strategy isn't thinking clearly. They are too close to the situation. They don't realize this strategy is the only thing for which they or this Congress will be remembered. Anyone who endorses this strategy will be forever remembered for trying to claim they didn't vote for something they did. They will be forever remembered by claiming they didn't vote for something they did vote for. It will go down as one of the most extraordinary legislative sleights of hand in history. Make no mistake, this will be a career-defining and a Congress-defining vote. Make no mistake, this will be a career-defining and a Congress-defining vote.

Most of the time, the verdict of history is hard to predict. In this case, it is not. Anyone who endorses this strategy will be remembered for it. On the other hand, anyone who decides in a moment of clarity that they shouldn't, that they should resist this strategy, will be remembered for standing up to party leadership that lost its way.

Democratic leaders continue to advance the false argument that this effort is somehow akin to certain legislative efforts of the past. There is no comparison. First of all, the good programs they are referring to were far more modest. They enjoyed broad support from both parties in Congress. Most importantly, they enjoyed broad support of the American people.

By contrast, there is no bipartisan consensus about this bill in Congress. It aims to reshape no less than one-sixth of our entire economy at a moment when our economy is already suffering and our existing debts threaten to drown us in a sea of red ink. Most importantly, Americans overwhelmingly oppose it. If you need any evidence of that, look no further than today's Washington Post, which calls this process unseemly, or the Cincinnati Enquirer, which calls it disgusting. Look no further than the President's own pollster, who is telling the White House that the chicanery the Democrats have used to advance this measure is a serious problem.

This entire effort has been a travesty, but the latest solution to give House Members a way out by telling them they can pretend they didn't vote for something they will, in fact, be voting for has sealed its fate. The latest solution to give House Members a way out by telling them they can pretend they didn't vote for something they will, in fact, vote for has sealed the fate of this legislation with the American public.

It is time for rank-and-file Democrats to pull the fire alarm—pull the fire alarm—and save the American people from this latest scheme and this unpopular bill. The process has been tainted. It is time to end the vicious cycle, start over, cleanse the process, and work on the step-by-step reforms the American people really want. It is time to recognize that constituents are not obstacles—constituents are not obstacles—to overcome with schemes and sweetheart deals. Fortunately, it is not too late.

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 for the transaction of morning business until 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, and the time from 10:30 a.m. until 12:30 p.m. shall be 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.

Mr. MCCONNELL. Madam President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from Virginia is recognized.

EXECUTIVE NOMINATIONS

Mr. WARNER. Madam President, there are many reasons why the Senate is known as one of the world's greatest deliberative bodies. This Chamber has seen some of the most important debates and votes since the beginning of our Republic. As a freshman Senator—I know my colleague, the Presiding Officer, is also a freshman Senator and soon we will be joined by a series of freshman Senators and my good friend, the Senator from Illinois, is here as well—I think we have all been struck by how much history has been made in this very Chamber.

I am reminded, as we saw last evening some of the exchanges between the majority leader and the Republican leader, there is still an awful lot that I at least feel, as a newcomer, I have to learn. But one thing has become clear to me since being sworn in a little over a year ago. Some of the very safeguards that were created to make this a serious and responsible deliberative body have been abused in a way that damages this institution. In some instances, this abuse also runs contrary to our national interest.

This became very clear to me several weeks ago during the nomination and voting on Justice Barbara Keenan. Senator JIM WEBB, my colleague, and I had the honor of nominating Virginia Supreme Court Justice Barbara Milano Keenan to the Federal Appeals Court for the Fourth Circuit. She is one of the most highly regarded jurists in Virginia. She received a unanimously ''well qualified'' rating from the ABA. She was reported by the Judiciary Committee unanimously last October, and then her nomination ground to a halt, first for weeks and then for months. In fact, her nomination was filibustered, if you can call it that. I recall in school thinking the filibuster

was something that was only going to be used on rare occasions of issues of national concern to make sure minority rights were protected.

Justice Keenan was filibustered, in effect, because one Senator placed a hold on her. Consequently, cloture had to be filed. That was despite the strong endorsement Justice Keenan had received from our new Republican Governor, Governor McDonnell. I appreciate his support of Justice Keenan.

A funny thing happened when we forced the vote both on cloture and the nomination: She was confirmed unanimously. Filibustering a nominee who gets a unanimous vote, something is not right with that. That is not the way this body is supposed to work.

This experience was truly an eye-opener for me. I see dozens of executive branch nominees caught up in this web. My understanding is, right now, in the second week of March, literally the Obama administration has 64 nominees pending. These are nominees where, despite overwhelming committee votes, they have languished on the calendar for months, often because one Senator has a completely different gripe about a completely unrelated issue.

The Presiding Officer knows, she and I were both Governors, we were both CEOs. I think it is incredibly important, whether you are a Governor, whether you are a CEO of a private company, and particularly if you are the President of this great country, you ought to be able to have your management team in place, clearly, 14 months after the inauguration of President Obama.

I certainly do not believe the Senate should be a rubberstamp for nominees. Far from it. In cases where there is legitimate disagreement about qualifications of any particular nominee, I am all for having a debate and then a straight up-or-down vote. But that has not been the case. It has not been the case with Justice Keenan, and I am going to cite one other individual today, and I know my other colleagues are going to be citing others.

The individual I wish to talk about is Michael Mundaca. He has been nominated by President Obama to be Assistant Secretary of the Treasury for Tax Policy—a very important job in crafting tax and revenue policies. He is both highly qualified and well respected, having worked previously at high levels of the Treasury Department and in the international tax department of Ernst and Young. He has a law degree from UC Berkeley School of Law and was executive editor of the California Law Review.

As I understand it, Mr. Mundaca's nomination was approved overwhelmingly, 19 to 4, in the Senate Finance Committee before Christmas. Since then, he has been denied a vote in this body, not over any substantive concerns. If there is a concern about Mr. Mundaca's qualifications, a Senator ought to come and make that case, and we ought to have a debate. No, that is not the reason. It is because one Senator or group of Senators has decided to try to leverage this nomination to some other end. To me, that is simply not fair.

This morning—I see my colleagues starting to arrive—many Senators who are relatively new to the body will take to the floor. We are the new guys and gals, the freshmen and the sophomores. Maybe we do not understand all the rules and traditions. We basically spent our first year trying to learn those rules and traditions.

But one of the issues that has united us in all coming here this morning is because the nomination process is broken, and we are asking all our colleagues—Republicans and Democrats—to come together, not as partisans but as Americans.

In the last four Presidential terms, there have been two Democrats and two Republicans holding the White House. I am confident we would be here regardless of who occupies the White House because a President deserves his or her management team to be in place 14 months after inauguration. If there are problems with their nominees, they ought to be debated and brought to the floor and discussed, not simply left in limbo. We need to start doing our job and start voting up or down on these nominees who are languishing on the Senate calendar.

I see my colleague who is much more experienced than this freshman, my good friend, the Senator from Rhode Island. I now yield 4 minutes to my friend, Senator WHITEHOUSE.

Mr. WHITEHOUSE. Madam President, I thank the Senator.

The last 2 years have seen the American economy on the brink of collapse, battered by an economic maelstrom not seen since the Great Depression and now slowly—too slowly—recovering its strength. President Obama's Recovery Act led the way, and we have seen its benefits over the last year with job losses slowing significantly. He inherited an economy losing, I think, 700,000 jobs a month, and it is now back to nearly break even.

An essential element of this recovery has been encouraging thriving export markets. Last week, President Obama laid out his plan to double exports in 5 years, an initiative which could create up to 2 million jobs. As the President said: ''In a time when millions of Americans are out of work, boosting our exports is a short-term imperative.''

But for international trade to function, our government must participate fully in international trade negotiations, advocating fair and open trading rules that allow American businesses to compete and export.

Yet a single Senator, the Republican Senator from Kentucky, has blocked the President's nominees for two key trade positions—nominees who cleared the committee with strong, positive votes. Michael Punke, nominated as Deputy Trade Representative to Geneva, and Islam Siddiqui, nominated to be Chief Agricultural Negotiator, deserve an up-or-down vote in the Senate.

In this economic crisis, why in the world would a Senator hold up such important appointments for our exports and for our economy, hobbling this administration's ability to fully participate in international trade talks?

The Senator from Kentucky has told us why: to try to force U.S. Trade Representative Ron Kirk to file a complaint regarding Canada's recently passed antismoking law. Yes, believe it or not, the Senator from Kentucky is blocking the appointment of critical U.S. international trade officials to try to force the administration to put pressure on Canada to change its antismoking law.

I am sure the tobacco industry is important in the Senator's home State, and protecting home State jobs is important. But hampering our ability to negotiate our trade agreements in this time of economic distress is not the way to do it. The Senator's hold is particularly ironic and unproductive, since trade officials, such as these nominees, are the ones charged with negotiating resolutions to trade issues such as the one that appears to motivate the Senator from Kentucky. Ambassador Kirk recently commented that the absence of these officials is having a significant impact and indicated the situation is causing some countries to question our commitment to serious trade talks. ''We would be greatly advantaged not only just from the manpower and intellectual strength these two individuals bring, but I think it would help us regain some of our credibility,'' is what Ambassador Kirk said.

Let's be clear. The Senator from Kentucky has said he does not have any objection to these nominees. He is only blocking the nominations as leverage against the President and Ambassador Kirk. That is pure obstructionism.

It is these kinds of political power plays—one Senator actually had 70 nominees on hold—that lead to such cynicism in the country about our ability to work together and get things done. When a Senator blocks basic governmental action—action that all agree is of national importance—for purely parochial and political reasons, the public rightly wonders what is going on.

If the Senator from Kentucky disagrees with the Canadian Legislature, fine, he should voice that disagreement publicly and try to persuade the President of the merits of his point of view. He is welcome to do that. Instead, he has chosen to add to the obstructionist tactics that are poisoning this Chamber and preventing the Government of the United States from doing its business. That may serve the immediate political goals of his party, but it is wrong for our country and it is wrong for all Americans who depend on an effective U.S. Government. I urge the Senator from Kentucky to release his holds.

I yield the floor back to Senator WARNER from Virginia.

Mr. WARNER. Madam President, I appreciate the comments of Senator WHITEHOUSE and his pointing out one more example of a qualified nominee who needs to be voted on up or down.

I now call upon my friend and colleague from Illinois, Senator BURRIS.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. BURRIS. Madam President, I thank my colleague from Virginia and the distinguished Senator from Rhode Island. It is a pleasure for me to join in this very important discussion in the Senate.

I am proud to join my Democratic colleagues on the floor this morning to discuss some of the obstructionism we have seen from the other side on a number of Presidential nominations. It is the duty of this Senate to provide advice and consent on more than 2,000 government officials appointed by the President of the United States. These individuals range from Cabinet level officers to agency administrators, ambassadors, Federal judges, and more. They are tasked with leading important agencies and offices such as the Transportation Security Administration, our diplomatic missions around the world, and various law enforcement organizations.

These nominees generally make it through committee on near-unanimous bipartisan votes. They are extremely dedicated public servants who stand ready to defend our national security, advance our shared interests, and carry out the important work of the American people. But when these nominations come out of the committee, they invariably hit a roadblock. They hit a stone wall. They are stalled the moment they come to the Senate floor. That is because my Republican friends are holding up dozens of these nominations.

Scores of important offices remain vacant because of the same partisan tactics of distraction and delay that we have seen time and time again from the other side. It is not that my Republican colleagues have any problems with the qualifications of the nominees themselves. They enjoy bipartisan support in committee. They carry the high esteem of both Democrats and Republicans. When we are finally able to break the filibuster and have an up-or-down vote, these individuals are almost always confirmed unanimously, as the judge from Senator WARNER's State of Virginia was, with a vote of 99 to 0. It was senseless for that nomination to be held up for that long.

But thanks to the same old political games, it is difficult to get cloture on these nominations so we can get a floor vote in the first place. The same Republican Senators who vote in favor of these nominees in committee—the same Senators who later support them on the floor—try to keep us from moving forward as a full Senate. This is obstructionism at its worst. This is pure politics at the expense of the American taxpayers.

This is a waste of our time and effort, and the American people deserve better. They sent us to Washington to solve big problems—to create jobs, to reform health care, to strengthen our educational system. But my Republican friends are not interested in working together to confront these challenges. Instead, they drag their feet on noncontroversial things such as Presidential nominations in hopes of scoring political points. They bring this body to a standstill just so they can advance a partisan agenda. Meanwhile, dozens of important Federal agencies are without leadership at the highest levels. Thousands of government employees are working without the public servants who have been appointed to lead them—all because of Republican political games.

So I would ask my good friends from the other side of the aisle to abandon these tactics of distraction and delay. Let's have a substantial debate about the issues, not an argument over procedure. Let's stop wasting time and start working together to solve the problems we face. In the meantime, let's confirm these nominees so they can take up their appointed offices and begin to serve the American people.

I yield the floor to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER (Mr. WARNER). The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I am here to join my colleagues from the freshman and sophomore classes to point out the obstruction that we are seeing from the other side of the aisle in holding up these executive branch nominees. It is unfortunate, with so many challenges facing this country, that we have to be on the floor of the Senate today talking about obstructionism rather than talking about what we can do to address the real issues facing this country.

One of those important issues has to do with how we get this economy going again. Ninety-five percent of the world's consumers live outside of the United States; and for American companies to grow and expand, to create jobs, we have to increase exports of goods and services. That is the simple reality.

There are several actions we need to take to help American companies compete overseas. Tomorrow, for example, I am going to be back on the Senate floor talking about what we can do to strengthen the Small Business Administration's export lending and promotion services. Certainly another thing we need to do is to protect the interests of American companies and workers in the trade arena.

As we have already heard from Senator WHITEHOUSE, that is why it is unconscionable that the confirmation of President Obama's nominee to be Ambassador to the World Trade Organization, Michael Punke, is being held up by a single Senator.

Senator TESTER came to the floor last week to ask Senator BUNNING to stop blocking Mr. Punke's confirmation. Now, after reading yesterday's New York Times, I felt compelled to also speak about the hold on this confirmation. Yesterday's story in the paper reported on China's aggressive filing of complaints with the WTO. In the last 12 months, China filed more complaints with the WTO than any other country, even though it is cleaning the clock of every country on the planet, including the United States, when it comes to trade.

China racked up a nearly $200 billion trade surplus with the rest of the world last year. Its trade imbalance with the United States is 4 to 1. Yet the top position of the United States at the WTO—you guessed it, the position that Mr. Punke has been nominated for—is being held up, is still vacant because there is one Senator who is unhappy with Canada's tobacco law.

That is right. As Senator WHITEHOUSE has already told us, the hold on Mr. Punke has nothing to do with whether he is qualified to be ambassador to the WTO. His confirmation was unanimously recommended by the Finance Committee 3 months ago. No, this critical post remains vacant because one Senator—Senator BUNNING—is angry that Canada banned flavored cigarettes as a way to combat teen smoking.

I certainly understand the tobacco industry fears the Canadian law will be interpreted broadly to ban American-blend cigarettes. But blocking the confirmation of our WTO ambassador over this issue at this time, when expanding exports is critical to our economic recovery, is counterproductive, and it is an abuse of Senate rules. The point has now been made. So now is the time for Senator BUNNING to lift this hold so we can confirm Mr. Punke and we can get this critical position filled and make sure that American businesses have a level playing field when it comes to exports.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I am proud to join my colleagues in the freshman and sophomore classes today to highlight a recurring problem in the Senate—the Republican holds on the confirmations of crucial executive branch nominees. These are not controversial people, as you will hear from what I am going to tell you from my part of the story today and what you have heard from some of my colleagues.

As a former prosecutor and the manager of a prosecutor's office of more than 400 people, I know from personal experience how important it is to have a strong leadership team in place. Only with a strong leadership team can an executive implement his or her vision. In our current economy, a vision for increased trade and export promotion is particularly important, and the President has one.

Earlier this year, he announced a plan, widely supported by CEOs of large and small corporations, to double American exports overseas in the next 5 years. Export promotion is a topic that is of special interest to me, as I chair the Subcommittee on Competitiveness, Innovation and Export Promotion.

I truly believe if we are to move this economy again, we have a world of opportunity out there. Ninety-five percent of the world's customers are outside of our borders. This is a different world with growing buying power in countries such as India and China, where instead of just importing goods we can be making stuff again; we can be sending it out so that customers in these other countries can be buying it.

Look at the numbers. A diversified base of customers helps a business weather the economic ups and downs. According to research, businesses that export grow 1.3 percent faster—and they are nearly 8.5 percent more likely to stay in business—than companies that don't export. These are the facts. So it is hard to believe, when we have a laser focus on the economy right now, when that is all I hear about from the people of my State, that my friends on the other side of the aisle are holding up the President's nominees for positions that promote American exports abroad. It makes absolutely no sense.

Right now, Republican holds are blocking votes on the confirmations of Michael Punke, nominated to be Deputy U.S. Trade Representative, and ''Isi'' Siddiqui, nominated to be Chief Agricultural Negotiator. These nominees have five decades of experience in international trade between the two of them, including extensive private sector and government work. They work with Democrats and they work with Republicans. They just want to get this economy moving again. But our friends on the other side of the aisle are placing holds on them at the very time when we all know this is the direction in which we need to move. These are exactly the type of people who could help expand American agricultural and small business exports and grow our economy.

These two nominees have been fully vetted and received strong bipartisan support in their Finance Committee hearings. They were recommended by the Finance Committee to the full Senate by a vote of 23 to 0—including the affirmative vote of the Senator who has since placed a hold on Mr. Punke. No one would believe this. The reason for the hold? The Senator in question wants Mr. Punke to commit to forcing Canada to repeal parts of an antismoking law passed by the Canadian Parliament.

So we have people in Rhode Island, in Illinois, in Minnesota, in New Hampshire who are looking for jobs, and they know that a key part of this is to increase exports to be able to sell our goods to other countries. Yet these guys are placing a hold on the very people who can get this work done because they are concerned about a law passed by the Canadian Parliament. It is too good to be true but, sadly, it is true.

Holding these nominees in limbo has dire consequences for our ability to promote American products abroad. Our international partners actually use the absence of Mr. Punke and Dr. Siddiqui as an excuse to stall progress on serious negotiations. You know what they say. They say: You don't have your guys in place. You don't have your people in place, so we are not negotiating with you, America.

Blocking these nominees gives cover to other nations that want to keep the United States from getting fair market access in the global trading system for American agriculture, manufacturing, and services.

A coalition of 42 food and agricultural groups wrote Senators REID and MCCONNELL in January to call for quick approval. They said: U.S. food and agricultural exports are under assault in many markets with trading partners erecting even more barriers in recent months. It has to stop.

In the United States, we further export promotion policy through a variety of different executive agencies, and Republicans aren't just holding up USTR reps, they are also holding up Eric Hirschhorn, the nominee to head up the Bureau of Industry and Security at the Commerce Department. This is the division at Commerce that screens exports to make sure national security, economic security, cyber-security, and homeland security standards are upheld when we export sensitive technologies.

The head of this bureau engages in strategic dialogues with high-level government officials from key transshipment countries such as Malaysia, Singapore, Hong Kong, and the United Arab Emirates in order to prevent sensitive technologies from being diverted to China, Iran, and North Korea. Leaving this position unfilled sends a negative message to the domestic exporting community, to our allied governments, and it hurts our security. Why would we want to leave this position unfilled?

Mr. Hirschhorn has spent more than 30 years involved in issues related to export control. As an author of numerous articles and ''The Export Control and Embargo Handbook,'' which is widely recognized as the leading text on the issue, Hirschhorn displays an unparalleled understanding of the importance of export control systems and work.

These are a few examples of the pivotal positions being held up by our colleagues on the other side of the aisle. If you are going to talk the talk about moving this economy, about exports, about trade, about getting our goods out there, building things again, then you should walk the walk. You should not be holding up Siddiqui and Punke and Hirschhorn. These are noncontroversial people. Nobody watching C–SPAN has ever heard of them before. They are not in the middle of some controversial mess. They are trying to get our country moving again. That is what this is about. For people who are trying to get jobs, trying to move this country, they need people in place in the government to help them. Take those holds off, get this moving, put these people in place.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Oregon is recognized.

Mr. MERKLEY. Madam President, I rise today to decry the attack of my Republican colleagues on the executive branch of the United States of America. The Constitution, which we are sworn to uphold, calls for a balance of power between three branches of government—the executive branch, the legislative branch, and the judicial branch. In it, it gives us a certain ability to test the fitness of high appointees to the executive branch. That is the advise and consent clause of the Constitution.

The Constitution does not have a delay and obstruct clause. It has an advise and consent clause. That means we have the responsibility, on a timely basis, to review high appointees to the executive branch and give our opinion. If we vote a person down, then indeed that nomination does not go forward.

What we have here is not a sincere application of advise and consent. We have a systematic effort underway to undermine the credibility and the capability of the President's team here in America.

This is a list of nominations that is being held up. This is not one nomination here and one nomination there. These are dozens and dozens of key appointees who will make the executive branch operate. Let's look at some of these. The Federal Election Commission, the Department of Energy, the Small Business Administration, the National Labor Relations Board, the Legal Services Corporation, the Department of Homeland Security, the Army, the Executive Office of the President, the Amtrak Board of Directors, the National Transportation Safety Board, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Department of Commerce, the Department of Housing and Urban Development, the Department of the Treasury, the Department of Health, the Department of Veterans Affairs, the Department of State, the Department of Energy, the Nuclear Regulatory Commission, the National Council on Disability, the Tennessee Valley Authority.

Fellow Americans, I think you get the picture that this is a list in a systematic effort to undermine the ability of the executive branch to do its job. If we simply look back at the nominations on which we have had to file cloture and hold a vote in this Chamber, two-thirds of those nominees have passed by more than 70 of this body.

Many of them had 80 or 90 votes because there was no sincere objection to this individual, be it he or she, in a number of these departments. But it was a systematic effort to delay the capability of the executive branch of the United States of America. That is unacceptable. We are not empowered as a Chamber, in this Constitution, to delay and obstruct and prevent the executive branch from doing its job.

I call upon my Republican colleagues who are conducting this attack on the President and his team to honor their constitutional responsibilities to advise and consent, to take this list and if there are a couple of key nominees that you have serious concerns about, then indeed let's have that debate here on the floor. But these dozens need to be set free to do their job. That is how the balance of powers is envisioned in the Constitution.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise this morning to raise questions about why the Republicans in the Senate are holding up a number of nominations. We have heard some of that articulated this morning by a number of our colleagues. I have a specific example of what this kind of obstruction leads to. It is with regard to a circuit court nomination, in this case a judge in the Middle District of Pennsylvania. This is someone I have known a long time, someone I have known to be not only capable to do the job a U.S. Court of Appeals judge must do, but also someone who has demonstrated his ability on the district court for many years. The person I am speaking of is Judge Thomas I. Vanaskie, who has been nominated for a position on the Third Circuit Court of Appeals, which covers Pennsylvania, New Jersey, Delaware, and the Virgin Islands.

As I said, I have known him a long time. He is someone who has been a legal scholar, someone who has a long and distinguished career on the Federal bench as well as a career as an advocate when he was practicing law.

I ask unanimous consent a fuller statement of his record and résumé be printed in the RECORD.

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

BIOGRAPHY

Judge Vanaskie's biography highlights both his scholarly and professional accomplishments and the high esteem in which he is held by his colleagues in the legal profession. He graduated magna cum laude from Lycoming College in Williamsport, Pennsylvania, where he was also an honorable mention All-American football player, a first team Academic All-American, the college's outstanding male student athlete, and the recipient of the highest award given to a graduating student.

At Dickinson School of Law, from which he graduated cum laude in 1978, Judge Vanaskie served as an editor of the Law Review and received the M. Vashti Burr award, a scholarship given by the faculty to the student deemed "most deserving".

After graduating, Judge Vanaskie served as a law clerk for Judge William J. Nealon, Chief Judge of the U.S. District Court for the Middle District of Pennsylvania.

Judge Vanaskie practiced law for two highly regarded Pennsylvania firms before his appointment to the U.S. District Court for the Middle District of Pennsylvania in 1994.

He became the Middle District's Chief Judge in 1999 and completed his seven-year term in 2006.

He was appointed by Chief Justice Rehnquist to the Information Technology Committee of the Judicial Conference of the United States where he served as Chair for three years. He has also participated in several working groups of the Administrative Office of the United States Courts, mostly recently on the Future of District CM/ECF Working Group, tasked with determining the design and development of the next generation of the federal judiciary's electronic case filing program.

He is an adjunct professor at the Dickinson School of Law and has also been active in civic and charitable efforts in his hometown of Scranton.

ACCOLADES

Lawyers who have appeared before Judge Vanaskie have expressed tremendous respect for his intellectual rigor and the disciplined attention he brings to the matters before him.

One attorney who has tried over a dozen cases before Judge Vanaskie has described him as "objective, fair, analytical, dispassionate, extraordinarily careful, and very respectful of appellate authority." This same practitioner said that he has not always agreed with Judge Vanaskie's decisions, but he has always felt that his rulings reflected what the Judge considered to be the most appropriate result, and the result that he was obligated to impose under the law.

U.S. District Judge William J. Nealon, for whom Judge Vanaskie clerked has described him as "superbly qualified . . . He's outstanding . . . He's brilliant. He's objective. And he's tireless . . ."

Judge Vanaskie recognizes that for many citizens, his decisions will be the final word on their claims. He treats people with respect and honors their right to be heard. His deep understanding of and respect for the law will serve him well in ruling on cases and authoring opinions that will be influential in the Third Circuit and beyond.

CAREER HIGHLIGHTS

In 2008, Judge Vanaskie presided over the first known court appearance of aging mobster Bill D'Elia where he pleaded guilty to two federal felonies. He later sentenced "Big Billy" to serve in federal prison.

Late last year, Judge Vanaskie sentenced the former Superintendent of the Pittston Area School District to 13 months in federal prison and a $15,000 fine for accepting $5,000 cash in kickbacks from a contractor he supported in obtaining a contract with the school district. The case is part of an ongoing investigation by the FBI and the IRS and is being prosecuted by a team of federal prosecutors.

He ruled that the government could not deport Sameh Khouzam, a native of Egypt and a Christian, because the State Department did not review Egyptian diplomatic assurances that Khouzam would not be tortured upon his return. "The fact that this matter implicates the foreign affairs of the United States does not insulate the executive branch action from judicial review," the Judge wrote. "Not even the president of the United States has the authority to sacrifice . . . the right to be free from torture . . ."

He presided over the trial and sentencing of an Old Forge man who spent more than $413,000 that he stole from victims of an investment scam. "You stole these people's money," said the Judge. "I can't sugarcoat it."

Mr. CASEY. Judge Vanaskie graduated with high honors from Lycoming College and was an honorable mention All-American football player there. He attended the Dickinson School of Law in Pennsylvania, graduated with honors in 1978, was editor of the Law Review, clerked for Judge William Nealon, who was then the Chief Judge for the Middle District of Pennsylvania. Judge Vanaskie went on to have a distinguished career as a lawyer. He got to the Middle District Court, the U.S. Middle District of Pennsylvania in 1994, became the Chief Judge, just like Judge Nealon, the judge he served. Judge Vanaskie became the Middle District's Chief Judge in 1999 and his 7-year term as Chief Judge was completed in 1996.

He was appointed by Chief Justice Rehnquist to the Information Technology Committee of the Judicial Conference of the United States, where he served as Chair for 3 years.

I will submit for the RECORD, as I mentioned before, what many people have said about him in addition to his record. I will read one of those at this moment. Judge Nealon, someone who has been on the District Court of Pennsylvania, the Middle District, for more than a generation, since 1962—here is what that judge said about Judge Vanaskie. He said:

> He is superbly qualified, he is outstanding, he is brilliant, he is objective and he is tireless.

There is not much more you could say that would be higher praise than that from not only a colleague but someone who has had decades of experience presiding over complex matters in the district courts.

In my own judgment, Judge Vanaskie demonstrated, when he was on the district court, the kind of legal acumen and scholarship and commitment to the rule of law that made him stand out on the district court. I know I personally have experience with that; I appeared before him. I remember in particular trying a case in front of him. He is someone I knew very well for many years, someone I had great respect for, but also someone I knew personally. Despite that personal connection, I do remember him ruling against me on a number of objections. That alone is testament to his integrity. It is widely shared.

When you consider all of that legal experience, unquestioned ability on the district court, unquestioned ability to handle very complex matters that prepared him to serve on the Third Circuit Court of Appeals and that he was voted out of committee close to unanimously—I think there were three votes against him. I will doublecheck this, but I think the vote was 16 to 3. I will make sure we check that for the RECORD.

Having said all that, I cannot understand why our friends on the other side

of the aisle would want to hold up someone who has such a brilliant record, who is committed to being and has already demonstrated a commitment to be a fair-minded judge, someone who will set aside their personal points of view, their personal biases, to rule on matters that come before the U.S. Court of Appeals for the Third Circuit. It does not make much sense when you consider the support he has received. But it seems, as on so many of these nominations, the impediment here is not a set of questions, not a set of unresolved issues. The impediment is too many Senators on the other side of the aisle who want to use the nomination process to achieve political objectives. That, in my judgment, is what is happening.

What they should do for the American people is set aside those political objectives and get people confirmed, just as they would hope that their nominees, people they support under a Republican President, would be confirmed.

This is just one example, but I think a very telling example, of what our friends are doing when they hold up a judge who has that kind of record of service, of commitment to justice and the rule of law. I think it speaks volumes about what is happening in the Senate on nominations.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Minnesota is recognized.

Mr. FRANKEN. Mr. President, I rise today to speak about the gridlock in the Senate and the effect it has on our ability to do our jobs as legislators. If you talk to the average person on the street, he or she will probably tell you that Americans are pretty frustrated with their government right now. People think government does not work and that politicians care more about fighting with each other than they do about helping American families.

Some days I can hardly blame the people who hold this opinion. We are now in the second year of President Obama's administration and we have only just begun to fill the spots in the executive and judicial branches because of filibusters, holds, and other procedural tactics that have delayed an extraordinary number of people. We had no Under Secretary for Domestic Finance at the Treasury Department despite the fact that our country has just experienced arguably the worst economic crisis since the Great Depression. We have no Assistant Secretary for Legislation at the Department of Health and Human Services. You would think when we have been considering health care reform legislation in the past year, it might be helpful to confirm an Assistant Secretary for Legislation at the Department of Health and Human Services.

There are so few members of the National Labor Relations Board, the Supreme Court is currently deciding whether the NLRB's current decisions have any legal standing, yet we have failed to confirm a single one of President Obama's three nominees.

In one of the most egregious examples of obstructionism, the Senate failed to vote on the appointment of the first nominee for Transportation Security Administration Chief, the person charged with keeping our Nation's airlines safe. In the interim, a terrorist tried to attack Northwest flight 253. Perhaps unsurprisingly, the nominee eventually withdrew himself from consideration, saying he was ''obstructed by political ideology.''

I have said it before and I will say it again: I have no problem with standing on principle. Our first President, George Washington, supposedly once said we pour House legislation into the senatorial saucer to cool it. Whether or not that story is true, the Senate has long served as the cooling Chamber, the place where reason and thoughtful debate occur in our Congress. The filibuster is a key tool for the way the minority can stand up to a majority that is acting irrationally in the heat of the moment. So I have no problems with my colleagues threatening to filibuster nominees or legislation that they actually oppose.

That is what the Founders intended. The Senate has an important role to play in giving the President its advice and consent on nominations. I take that role very seriously. But too often my colleagues filibuster nominees they actually support in an effort to extract other promises or just to slow the Senate down.

In February, the Senate finally confirmed the noncontroversial administrator of the General Services Administration after 9 months. The vote was 94 to 2. Similarly this month, my colleagues forced a cloture vote, they forced a cloture vote to approve a judicial nominee for the Fourth Circuit Court of Appeals. She was then confirmed unanimously, 99 to 0.

Yet we are forced to vote for a filibuster. That is nuts. This is a perversion of the filibuster and a perversion of the role of the Senate. It used to be the filibuster was reserved for matters of great principle. Today it has become a way to play out the clock. Some of my colleagues seem more interested in using every procedural method possible to keep the Senate from doing anything then they are in creating jobs or helping Americans struggling in a difficult economy.

They seem to actually want the government to fail. Why else delay things you actually agree with? No wonder Americans are frustrated with the government. It is time for this to stop. It is time for the Senate to stop playing politics or pursuing personal agendas and start approving well-qualified nominees without forcing unnecessary delay.

For our government to function the way it is supposed to, it needs to have personnel. Let's give the executive branch and the judicial branch the people they need so we can help government function in the way it is supposed to and reassure Americans that government does work for them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I rise, along with my colleagues this morning, to draw attention to the growing dysfunction exacted on this institution's ability to confirm both judicial and executive branch nominees.

Having served five terms in the House of Representatives, I have come to expect a certain amount of political revelry and combat. While I was honored to serve in the House, and I have fond memories of the often raucous debates there, I had high expectations that the Senate would truly be a place of deliberation and bipartisan goodwill.

Of late, however, it seems the worst political gamesmanship has infiltrated the Senate. Perhaps the proverb ''the grass is always greener on the other side'' applies here, but I do have to tell you, I think the level of gridlock we have faced in the last year is unprecedented.

We have seen roadblock after roadblock as we have tried to exercise one of the most basic functions of the Senate, that of making sure we have a full complement of Federal judges and ensuring the departments and agencies of the sitting administration are filled with competent public servants.

In contrast, by this date during President Bush's first term in office, the Senate, with a Democratic majority, had confirmed twice as many circuit and district court nominations. The obstruction of present judicial nominees is all the more galling when you note that they were reported by the Judiciary Committee without dissent.

Two weeks ago today, we were forced to invoke cloture on Barbara Milano Keenan to be U.S. circuit judge. Her nomination was held up for months. We finally had to say enough is enough and shut off the filibuster. When we finally voted on cloture, it was invoked 99 to 0, meaning not a single Senator was willing to stand and oppose the nominee.

You know in your State, Mr. President, this is the kind of superficial partisanship the American people are fed up with. In addition to judicial nominees, President Obama's executive branch appointments have suffered from a similar kind of gamesmanship. One would be hard-pressed to find one single department in this administration whose work has not been interrupted by phony delays.

Let me give you an example. After having invoked cloture and overcome a filibuster on Martha Johnson to be the Director of the General Services Administration, not a single Senator was willing to stand in opposition to the nominee. Cloture was invoked and she was confirmed by a 96-to-0 margin.

I know partisanship is rampant in this town, but the American people deserve to know what is happening in the

Senate. We are reaching a heightened level of imprudence, the kind George Washington warned us about in his farewell address in 1796.

In outlaying the principle we first all have an obligation to govern, Washington stated, ''All obstructions to the execution of the national laws [. . .] with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities are destructive of this fundamental principle.''

As I close, the American people know this town causes grown men and women to bicker and fight like children. Children have an excuse, they are children. We are not. We can do better, and I urge my colleagues to set aside their partisan differences, end this gridlock, and begin working together for the good of the American people.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN.) The Senator from North Carolina.

Mrs. HAGAN. I thank the Senator from Colorado for yielding.

I am joining my freshman colleagues on the floor to express my amazement at the difficulty this body is having conducting even the simplest legislative functions.

When I came to Washington last year from the North Carolina State Senate, I was certainly under no illusions that the process here would be lightening fast. In fact, I believe strongly we should take the time to make reasoned judgments about legislative and executive branch and judicial nominees. The American people are better served when we take the time to make the best decisions.

But there is a difference between taking time for reasoned judgment and impeding progress for the sole purpose of delay. There currently are 67 executive branch nominations awaiting action by the full Senate. Every one of these has been approved by the committee of jurisdiction, many having been approved unanimously. Thirty-one of those sixty-seven nominees were approved in committee last year and have been waiting for months for action by the full Senate.

One individual awaiting action by the Senate, Michael Punke, has been nominated to be our ambassador to the World Trade Organization. He was approved unanimously by the Senate Finance Committee in December.

As my colleagues know, the member countries of the WTO are currently engaged in a round of trade talks that could have enormous implications for American workers and industries. Would it not make sense to have the best possible American representation at those talks? Should we not want someone there who is advocating forcefully on behalf of our American workers, producers, and businesses?

It has been reported the delay in considering this particular nomination is connected to a concern one Senator has regarding a recent tobacco law passed in the Canadian Parliament. Well, I represent the largest tobacco State in the country. I will be honest, I understand the concerns of my fellow tobacco-State Senator regarding this legislation.

But I guess I have not been here long enough to understand how concerns with Canadian tobacco legislation lead you to the conclusion that you should prevent the United States from being represented in international trade negotiations. How are we supposed to address our issues with Canada and all trading partners when our seat at the table is empty? That is just one example. The calendar is full of nominees who deserve a vote.

In fact, there are two judicial nominees on the calendar from North Carolina who would be easily confirmed should they come up with for a vote, Jim Wynn and Al Diaz, nominees for the Fourth Circuit Court of Appeals. They were both approved by the Senate Judiciary Committee in January. But truth be told, we have not just been waiting since January, we have been waiting since 1994.

There has been an opening for a North Carolina judge on the Fourth Circuit since 1994. Partisan politics has gotten in the way of filling that vacancy time and again. Finally, we have not one but two qualified judges, supported by both myself and Senator BURR. Let's bring them up for a vote.

The government cannot function without qualified appointees in place. Let's stop the delays and bring these nominees up for a vote so they can get on with the business of the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. Mr. President, I rise to call on the Senate to do something the rest of the American people are doing, our job. Most of President Obama's nominees to the executive branch and our Federal courts are not even remotely controversial. The country needs them on the job, and their responsibilities, their careers, and the stress on their families should not be caused by holds and other pointless delays.

We face serious challenges as a nation. Unemployment and underemployment rates are unacceptably high. Our courts have unprecedented backlogs. We are fighting two wars and have the persistent threat of terror that casts a shadow over our security.

We need a functioning Federal Government. The American people expect this. Yet some in this body are too tied up in ''politics as usual'' to get our government working again. Rather than making sure we get the government up and running by allowing our votes on key administration nominees, the Senate is mired in perpetual stalling, failing to perform its constitutional responsibility to advise and consent. Qualified people nominated to hold key positions in the administration are languishing in the Senate because of procedural abuses. These should end.

I have introduced a resolution which would help address some of these abuses. My resolution would bring holds by one Senator outside the shadows, time limit them, and place requirements that, after 2 days, holds must be bipartisan to continue.

These commonsense improvements ought not be necessary. But in today's Senate, unfortunately, they are. I fully support scrutinizing all positions requiring confirmation. In fact, that is why my suggested resolution actually says, if you have bipartisan support—and there might be a reason to look at it other than just pure politics—I think we should look at it.

But useless delay is not getting us anywhere. I am not asking for a rubberstamp from anyone. But a desire to assert leverage over the administration or a desire to frustrate the government's efforts to work for the American people is unacceptable for holding up nominees.

Too often we have seen nominees held for months only to be confirmed by overwhelming margins. Judge Barbara Keenan was recently confirmed to the Fourth Circuit Court of Appeals by the breathtakingly close vote of 99 to 0. This was after her nomination was held up for 4 months following approval by the Judiciary Committee.

There are currently 16 other judicial nominees who, similar to Judge Keenan, have cleared the Senate Judiciary Committee and are awaiting floor time. Unfortunately, they are subject to partisan and meritless delays. The result is, our district and appellate courts will continue to be backlogged and justice will not be served in communities all across the United States of America.

Judicial nominations have a sad history of partisanship in recent years. The delays and games that have replaced the Senate's role to advise and consent have now bled into all executive branch nominations at unprecedented levels.

Just last month, the media reported 80 nominees were being held up by one Senator. These holds included the Under Secretary for Military Readiness and top officials at the Departments of State and Homeland Security. These holds were unrelated to the actual nominee and solely concerned parochial and political interests. Our national security should never be subjugated to one Senator's politics.

We also had the President's nomination to the Transportation Security Administration tied up and ultimately withdrawn because of partisan bickering unrelated to his responsibilities to secure our airports. This is unacceptable. Does it no longer matter whether there is someone at the helm of the agencies responsible for securing our airports?

How is this acceptable behavior in the Senate? It would not be acceptable

behavior around my kitchen table. If it is not acceptable there, it should not be acceptable here. There are too many examples of qualified, noncontroversial nominees, such as Martha Johnson, the GSA Administrator with impeccable qualifications whose nomination was held for 9 months. Yet she was confirmed by a 96-to-0 vote once the hold on her nomination was removed.

These nominations are being blocked even though they have broad bipartisan support.

I urge my colleagues to remove their holds on noncontroversial administration nominees and allow confirmation votes.

I yield the floor.

Mr. WARNER. I thank my colleague from Colorado.

Mr. LEAHY. Mr. President, many Senators are speaking on the Senate floor today about the Republican delays and obstruction of President Obama's nominations to fill critical posts throughout the executive branch.

Republicans have engaged in a partisan effort to block scores of nominations, preventing up-or-down votes in the Senate. This Republican effort has prevented the Senate from considering well-qualified public servants like Professor Chris Schroeder, who was first nominated by President Obama on June 4, 2009. He appeared before the Senate Judiciary Committee last June, and was reported favorably in July by voice vote, with no dissent. His nomination then languished on the Senate's Executive Calendar for nearly 5 months. Not a single Republican explained the reason for the delay.

Republican Senators objected to carrying over Professor Schroeder's nomination into the new session. It was returned to the President with no action. President Obama nominated Professor Schroeder again this year, and again his nomination was reported by the Judiciary Committee with Republican support. An esteemed scholar and public servant who has served with distinction on the staff of the Senate Judiciary Committee and in the Justice Department, Professor Schroeder has support across the political spectrum.

We treated President Bush's nominations to run the Office of Legal Policy much more fairly than Republicans are treating President Obama's, confirming all four nominees to lead that office quickly. We confirmed President Bush's first nominee to that post by a vote of 96 to 1 just 1 month after he was nominated, and only a week after his nomination was reported by the Judiciary Committee. In contrast Professor Schroeder's nomination has been pending since last June. It is time for an up-or-down vote on his nomination.

In addition to the many executive branch nominees currently stalled on the Senate calendar, there are 18 judicial nominees that have been reported favorably by the Judiciary Committee—most of them unanimously—who await Senate consideration. That is more nominees than the total of President Obama's circuit and district court nominees—17—that have been confirmed since he took office. This sorry state of affairs is the result of a Republican strategy to stall, obstruct, and delay that has existed throughout President Obama's time in office. The casualties of this effort are the American people who seek justice in our increasingly overburdened Federal courts.

By this date during President Bush's first term, the Senate had confirmed 41 Federal circuit and district court nominations. That was a tumultuous period in which Senate Democrats worked hard to make progress with a staunchly partisan Republican President. It included the period of the 9/11 attacks and the anthrax attacks upon the Senate. In contrast, the Senate has confirmed just 17 Federal and circuit court nominees—just 17—during President Obama's first term.

We are currently on pace to confirm fewer than 30 Federal circuit and district court nominees during this Congress, which would be easily the lowest in memory. That number stands in sad contrast to the 100 judges we confirmed when I chaired the Judiciary Committee for 17 months during President Bush's first term. When we were reviewing the judicial nominees of a President of the other party, and one who consulted across the aisle far less than President Obama has, we confirmed 100 judges in just 17 months. President Obama is in his 14th month and Senate Republicans have allowed only 17 Federal circuit and district court judges to be confirmed. We are 24 behind the pace we set in 2001 and 2002.

The Judiciary Committee has favorably reported 35 of President Obama's Federal circuit and district court nominees to the Senate for final consideration and confirmation. Eighteen of those nominees are still awaiting a vote by the Senate. The Senate can more than double the total number of judicial nominations it has confirmed by considering the other judicial nominees already before the Senate awaiting final action. We should do that now, without more delay, without additional obstruction. There are another five judicial nominations set to be reported by the Judiciary Committee this week. They will bring the total awaiting final action by the Senate to 23. Confirming them without unnecessary delay would put us back on track.

While Republican Senators stall, judicial vacancies continue to skyrocket. Vacancies have already grown to more than 100, undoing years of our hard work repairing the damage done by Republican pocket filibusters of President Clinton's judicial nominees. When I chaired the Judiciary Committee during President Bush's last year in office, we reduced judicial vacancies to as low as 34, even though it was a presidential election year.When President Bush left office, we had reduced vacancies in 9 of the 13 Federal circuits. As matters stand today, judicial vacancies have spiked and are being left unfilled. We started 2010 with the highest number of vacancies on article III courts since 1994, when the vacancies created by the last comprehensive judgeship bill were still being filled.

More than 30 of the vacancies on our Federal courts today are classified as ''judicial emergencies.'' This is another reversal of our hard work during the Bush administration when we reduced judicial emergencies by more than half. Those vacancies have now increased dramatically, encumbering judges across the country with overloaded dockets and preventing ordinary Americans from seeking justice in our overburdened Federal courts. This is wrong. We owe it to the American people to do better.

President Obama deserves praise for working closely with home State Senators, whether Democratic or Republican, to identify and select well-qualified nominees to fill vacancies on the Federal bench. Yet Senate Republicans delay and obstruct even nominees chosen after consultation with Republican home State Senators. President Obama has worked closely with home State Republican Senators, but Senate Republicans have still chosen to treat his nominees badly. Last year, President Obama sent 33 Federal circuit and district court nominations to the Senate, but the Senate confirmed only 12 of them, the fewest judicial nominees confirmed in the first year of a Presidency in more than 50 years.

Senate Republicans unsuccessfully filibustered the nomination of Judge David Hamilton of Indiana to the Seventh Circuit, despite support for his nomination from the senior Republican in the Senate, DICK LUGAR of Indiana. Republicans delayed for months Senate consideration of Judge Beverly Martin of Georgia to the Eleventh Circuit despite the endorsement of both her Republican home State Senators. When Republicans finally agreed to consider her nomination on January 20, she was confirmed unanimously. Whether Jeffrey Viken or Roberto Lange of South Dakota, who were supported by Senator THUNE, or Charlene Edwards Honeywell of Florida, who was supported by Senators Martinez and LEMIEUX, virtually all of President Obama's nominees have been denied prompt Senate action by Republican objections.

I noted when the Senate considered the nominations of Judge Christina Reiss of Vermont and Mr. Abdul Kallon of Alabama relatively promptly that they should serve as the model for Senate action. Sadly, they are the exception rather than the model. They show what the Senate could do, but does not. Time and again, noncontroversial nominees are delayed. When the Senate does finally consider them, they are confirmed overwhelmingly.

In December, I made several statements in this Chamber about the need for progress on the nominees reported by the Senate Judiciary Committee. I

also spoke repeatedly to Senate leaders on both sides of the aisle and made the following proposal: Agree to immediate votes on those judicial nominees that are reported by the Senate Judiciary Committee without dissent, and agree to time agreements to debate and vote on the others. I have recently reiterated my proposal and urged Senate Republicans to reconsider their strategy of obstruction. There is no justification for these nominations to be dragged out week after week, month after month.

The last time the Senate considered judicial nominations was weeks ago. Indeed, on March 2, the Republican filibuster and obstruction of the nomination of Justice Barbara Keenan of Virginia to be a Fourth Circuit Judge had to be ended by invoking cloture. Senate Republicans would not agree to debate and vote on her nomination and the majority leader was required to proceed through a time consuming procedure to end the obstruction. The votes to end debate and on her confirmation were both 99 to 0. That nomination had been reported in October. So after more than 4 months of stalling, there was no justification, explanation or basis for the delay. That is wrong. That was the 17th filibuster of President Obama's nominations.

The 18 judicial nominees awaiting Senate consideration are: Jane Stranch of Tennessee, nominated to the Sixth Circuit; Judge Thomas Vanaskie of Pennsylvania, nominated to the Third Circuit; Judge Denny Chin of New York, nominated to the Second Circuit; Justice Rogeriee Thompson of Rhode Island, nominated to the First Circuit; Judge James Wynn of North Carolina, nominated to the Fourth Circuit; Judge Albert Diaz of North Carolina, nominated to the Fourth Circuit; Judge Edward Chen, nominated to the Northern District of California; Justice Louis Butler, nominated to the Western District of Wisconsin; Nancy Freudenthal, nominated to the District of Wyoming; Denzil Marshall, nominated to the Eastern District of Arkansas; Benita Pearson, nominated to the Northern District of Ohio; Timothy Black, nominated to the Southern District of Ohio; Gloria M. Navarro, nominated to the District of Nevada; Audrey G. Fleissig, nominated to the Eastern District of Missouri; Lucy H. Koh, nominated to the Northern District of California; Jon E. DeGuilio, nominated to the Northern District of Indiana; Tanya Walton Pratt, nominated to the Southern District of Indiana; and Jane Magnus-Stinson, nominated to the Southern District of Indiana. Twelve of the 18 were reported from the Senate Judiciary Committee without opposition; one had a single negative vote. The stalling and obstruction should end and these nominations should be considered by the Senate and voted upon without further delay. When they are, they, too, will be confirmed overwhelmingly.

I also want to highlight my concern about the new standard the Republican minority is applying to many of President Obama's district court nominees. Democrats never used this standard with President Bush's nominees, whether we were in the majority or the minority. In 8 years, the Judiciary Committee reported only a single Bush district court nomination by a party-line vote. That was the controversial nomination of Leon Holmes, who was opposed not because of some litmus test, but because of his strident, intemperate, and insensitive public statements over the years. During President Obama's short time in office, not one, not two, but three district court nominees have been reported on a party-line vote as Senate Republicans look for any reason to oppose every nomination. I hope this new standard does not become the rule for Senate Republicans.

Of the 17 Federal circuit and district court judges confirmed, 14 have been confirmed unanimously. That is right. The delay and obstruction is so baseless that when votes are finally taken, they are overwhelmingly in favor and most often unanimous. There have been only a handful of votes cast against just three of President Obama's nominees to the Federal circuit and district courts. One of those, Judge Gerry Lynch of the Second Circuit, garnered only three negative votes, and 94 votes in favor. Judge Andre Davis of Maryland was stalled for months and then confirmed with 72 votes in favor. Judge David Hamilton was filibustered in a failed effort to prevent an up or down vote.

So why all the obstruction and delay? It is part of a partisan pattern. Even when they cannot say ''no,'' Republicans nonetheless demand that the Senate go slow. The practice is continuing. There have already been 17 filibusters of President Obama's nominees. That is the same number of Federal circuit and district nominees the Senate has confirmed during the entirety of the Obama administration. And that comparison does not include the many other nominees who were delayed or who are being denied up-or-down votes by Senate Republicans refusing to agree to time agreements to consider even noncontroversial nominees.

I urge Senate Republicans to reconsider their destructive strategy and to work with us to provide final consideration without further delay to the 18 judicial nominees on the Senate Executive Calendar awaiting final action. We can make real progress if they will join with us and we work together.

The PRESIDING OFFICER. The Senator from Virginia.

EXTENSION OF MORNING BUSINESS

Mr. WARNER. I thank my colleague from Colorado. I ask unanimous consent that 7 minutes of morning business be added to each side and at the end of that time, the Senate stand in recess as provided for under the previous order. I thank my colleagues on the other side for their courtesy.

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

The Senator from Alaska.

Mr. President, I am pleased to join my colleagues on the floor today to discuss what none of us are the least bit happy to see happening in the U.S. Senate.

We were sent here by the people of our States to get work done. This means passing legislation and overseeing the work of Federal agencies.

It is difficult, if not impossible, for Federal agencies to do the work Congress and the American people want them to do if they spend months—in some cases, years—leaderless. It is impossible for them to do their work if they can hope that a momentary peace will break out in the Senate to allow for confirmation of the presidential designee for their respective agency.

As Senators, we are endowed with a constitutional responsibility to lend our advice and consent to the men and women a President nominates to run agencies and parts of agencies.

Career civil servants can do a lot. We would be lost without them. But they do not have the authority, or the accountability to Congress and the American people to accomplish what a President selects them to do.

Yet many of our colleagues on the other side of the aisle would deny President Obama any of his nominees. I believe a President—the current President or any future President with whom I am lucky enough to serve—is due a great deal of deference in his or her selections for Senate-confirmable positions.

For our Republican colleagues, it would seem there is a belief that the Federal Government should just not function, certainly any government led by President Obama.

We have seen the slow-walking, the indefinite—and indefensible—holds on nominations for crucial national security positions. Only when Armed Services Chairman LEVIN took the unusual step of embarrassing colleagues who were placing a hold for their home State politics did a number of important nominees get reported out of our committee.

There is still a hold by one of our Republican colleagues—unbelievable as it may seem—on the promotion of an Army general while our Nation is involved in two wars.

But the problem and the cynicism of Republican obstructionism is seen nowhere as obviously as in the judiciary. There are currently 103 Federal judge vacancies.

Several nominees reported out of the Judiciary Committee have been denied votes in the Senate by Republican ostructionism for almost 200 days. In some cases the judicial seat to be filled has been vacant for years.

It is clear that—even if they are in denial about who was elected in 2008—

our Republican colleagues have their sights set on 2012 and beyond, when they hope to have a huge number of Federal court vacancies to be filled by a President more to their liking.

Obstruction of nominees hurts the functioning of the government our colleagues have strived to be part of. If they continue to block qualified nominees, our Republican colleagues only further demonstrate their unwillingness to perform the duties for which they were elected and prove their disdain for the constitutional responsibilities with which they have been entrusted.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, let me thank Senator WARNER for organizing this presentation to point out the abuses the minority has used in blocking the responsibility of the Senate to confirm appointments made by the President. I believe in the right of the minority. At times, it needs to be exercised. But it has been abused. The American people need to know that because it is affecting their rights and the ability of agencies and the courts to protect the rights of Americans.

Let me cite one number: 60 individuals the President has nominated for important offices have been blocked in their confirmation votes on the Senate floor even though their nominations were approved by the committees either by voice vote or unanimous vote or by significant supermajorities. These are just being delayed, when we now know the final outcome will be approval. As a result, Americans are being denied judges on the courts and administrators who can help enforce their rights.

We have already heard the circumstances about our courts, how we have had to take to a cloture vote, which means floor time, for the nomination of Judge Keenan, who received 99 votes and no one in opposition. We have two vacancies on the Fourth Circuit right now. These appointments have been approved overwhelmingly by the Judiciary Committee—Albert Diaz and James Wynn—by votes of 19 to 0 and 18 to 1. They have the support of Senators BURR and HAGAN. Yet they have still not been brought to the floor for a vote. That represents a 20-percent vacancy on the Fourth Circuit, denying the people of my region their full representation on the appellate court.

We are very proud of legislation we have passed to help the disabled—the ADA law—to guarantee gender pay equity with the Lilly Ledbetter law, and genetic discrimination prohibition legislation. But it takes the EEOC to enforce those rules. President Obama has submitted four nominees for the EEOC. They have been approved by the committee by voice votes, which means they are not controversial. Yet we cannot bring those nominations to the floor for quick action because Republicans are abusing their rights to hold up action on the floor of the Senate to carry out our constitutional responsibilities to act on the President's nominations.

This is denying the people of America the protections they are entitled to by the courts and by agencies. It is wrong. It is time for this practice to end.

I yield the floor.

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

Mr. KYL. I ask unanimous consent to speak for 15 minutes.

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

HIRE ACT

Mr. KYL. Mr. President, we are going to be taking up the so-called HIRE Act starting tomorrow. I wish to address some of the problems with it since the procedure under which we have considered this bill does not allow any amendments. As a result, we have no opportunity to fix problems that are inherent with the bill and will force me to vote against it.

The first provision that should be highlighted is the provision called the Build America Bonds. This was created first in the 2009 stimulus bill. It offers a direct subsidy from the Federal Government to States and other governmental entities to cover their cost of financing for certain kinds of projects.

The House-passed bill expands this subsidy by allowing four current tax-preferred bonds to qualify for the direct subsidy under this program and increases the generosity of that subsidy to cover all of the borrowing costs for education projects. This will mean an expansion of the already substantial support the Federal Government offers for State and local governments, support for which we taxpayers are then responsible. The Federal Government gave $44 billion in extraordinary stimulus State aid last year and regularly spends $26 billion annually in sub-Federal Government subsidies through tax-exempt bond financing. This is a significant Federal expenditure for which taxpayers will be responsible.

Here is the key problem, in addition to the additional exposure of taxpayers: Because interest rates reflect risks, States with poor credit ratings that therefore pay higher interest rates would actually be rewarded under this legislation due to the structure of these bonds. For example, a State that issues $1 billion worth of debt paying a 5-percent interest rate would receive a bigger direct payment from the Federal Government than a State issuing $1 billion worth of debt paying a 4-percent interest rate. Thus, States with lower credit ratings could receive larger subsidies, which, of course, encourages greater risk-taking and creates an incentive for States to issue even more debt than they would have without the subsidy.

The so-called jobs bill would further reward States with poor credit. The Senate version of the bill expands the Build America Bonds program by giving insurers of certain tax credit bonds for school construction and alternative energy projects the option of receiving direct payment of up to 65 percent of the interest cost. The House bill would, in certain cases, reimburse up to 100 percent of a project's interest costs.

The original Build America Bonds program encouraged States to take greater risks. The bill we will consider tomorrow would make the problem even worse. One of the lessons from the financial crisis is that people should not borrow more than they can afford. Unfortunately, it appears many of us have not taken this lesson to heart.

There is a provision relating to highway extension. Rather than being a straight extension of the current highway authorization, this bill represents a significant expansion of the Federal Government's funding for highway projects. The highway piece first cancels rescissions that were scheduled under the last highway reauthorization. It then permanently increases the authorization levels for highway spending and permanently authorizes interest payments from the general fund to the highway trust fund and authorizes a one-time transfer of $19.5 billion from the general fund to the highway trust fund.

Although not all of these costs will show up as increasing the deficit because of the unique CBO scoring conventions, all told, the highway extension under this bill will add $46.5 billion to the debt over the next 10 years and will authorize $142.5 billion in additional spending over the next 10 years.

You hear the President talking about not adding to the deficit. All of our colleagues wring their hands and say: We have to somehow control Federal spending. Yet in this legislation we take up tomorrow we add $46.5 billion to the debt over the next 10 years and then authorize an additional $142.5 billion of spending over the next 10 years. When will it stop?

There is a provision of the bill that has some merit to it. It is called the payroll tax holiday, although I think the way it has been constructed is not something we should do. This is the most expensive piece of the bill. In fact, the Congressional Budget Office has told us that it expects a provision similar to this to create five to nine jobs for each million dollars in budgetary cost in 2010. Since this provision would cost approximately $13 billion by using the CBO model, one would estimate that the provision would create between 65,000 and 117,000 jobs this year at a cost of $110,000 to $200,000 per job. This sounds a lot like the stimulus bill to me, a very inefficient way to create jobs, if, in fact, they actually get created.

The proposed payroll tax holiday comes on the heels of the Senate-passed health care bill which actually increases the Medicare payroll tax from 2.9 percent to 3.8 percent. This actually would relieve employers of an

element of the payroll tax. So which is it? Do we agree that payroll taxes that are increased are unhelpful to job creation?

According to Timothy Bartik of the Economic Policy Institute:

> The employer tax credit in the Senate jobs bill is likely to create few jobs and at an excessively high cost.

As I have said, up to $200,000 per job. He explains it this way:

> Awarding credits for hires can be very expensive. Over a one-year period, the number of hires, as a percentage of total private employment, is over 40 percent even during a recession. To pay for hires that would have occurred anyway will be expensive and won't necessarily increase total private sector employment. The Schumer-Hatch design tries to avoid some of these large costs in several ways. First, credits are limited to hiring the unemployed, apply only to the rest of 2010, and are only worth 6.2 percent of the new hire's payroll costs. The retention bonus is of modest size and delayed. While these limits control costs, they also hamper the credit's benefits.
>
> Limiting the credit to hiring someone unemployed at least 60 days makes the credit less attractive to employers.
>
> Not only does the credit become more complicated to claim (which reduces its effectiveness), but it restricts the employer's hiring to a more limited pool of workers.

Bartik also explains that past experiences—for example, with the targeted jobs tax credit, the work opportunities tax credit, and the welfare-to-work tax credit—show that tax credits to encourage hiring disadvantaged workers usually generate little employer interest and have a negligible effect upon employer behavior. He says:

> Employers are happy to claim such credits, if they happen to meet the credit's rules, but they are reluctant to change their behavior in response to such targeted tax credits.

So even the one provision of the bill that actually has some alleged relationship to job creation probably would not and, to the extent it does, would cost an extraordinary amount of money per job actually created.

Let me turn to one of the ways in which these expenses are allegedly offset: delaying the application of the so-called worldwide interest allocation. This is a very bad idea. This delays implementing a corporate tax reform we passed in 2004 in order to help American businesses properly account for their overseas income and, frankly, be more competitive with those abroad.

The worldwide interest allocation rules were originally improved as part of the American Jobs Creation Act of 2004, as I said, and were scheduled to take effect in 2009. However, the Housing and Economic Recovery Act of 2008 delayed the effectiveness of these rules by 2 years to 2011. The Worker, Homeownership, and Business Assistance Act of 2009 that extended the first-time home buyer tax credit further delayed the effectiveness of these rules to 2018.

The so-called jobs bill would delay this provision through the end of the existing budget window to 2021. Repeated delays have the same effect as repeal: an increase in the effective corporate tax rate. As I said, that does nothing to help our American businesses in their desire to compete overseas.

So these are just some of the reasons why I am not going to be able to support the HIRE Act, and I would urge my colleagues, since we are not going to have an opportunity to amend it, to oppose it as well.

Might I ask, Mr. President, how much time I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes.

HEALTH CARE

Mr. KYL. Mr. President, I wish to address now the health care legislation we passed in the Senate and that is pending over in the House of Representatives.

There is a news report that Democrats are going to use the strangest of all procedural tactics to try to pass the Senate health care bill over in the House of Representatives, and this is against a backdrop of a lot of strange things—the use of the reconciliation process, all the backroom deals that result in the various benefits for various Senators and Representatives—we have heard so much about.

It almost seems Democratic leaders view the views of their constituents as an obstacle to be overcome, and every time the polls show even more opposition to the legislation, they decide to try even more clever ways of getting around their constituents' views—wheeling and dealing, backdoor legislation—but nothing quite as brazen, I guess I would say, as the process we now see developing. This is a process I became familiar with as a Member of the Senate—not when I was in the House of Representatives because I do not believe it was ever used then, although it might have been and I was not aware of it. But it is a process by which House of Representatives Members can actually say they have passed a piece of legislation without ever voting on it.

You might say: That does not quite comport with what I learned in eighth grade civics class, and you would be right. We all know the only way a President can sign a bill is if identical versions of legislation pass both the House and the Senate.

Well, the House does not want to have to vote on the Senate health care bill because, as the Speaker of the House said: ''Nobody wants to vote for the Senate bill.'' So now what they have done is concoct a way you can actually pass the bill without ever voting for it, and it is by including the substantive Senate-passed bill into the rule that as a procedural matter the House votes on to consider each measure. So as a rule to consider the reconciliation bill is brought to the House floor, it would contain a provision that would deem the Senate-passed bill passed, even though the House Members would never vote on it.

That is wrong. It is probably unconstitutional. Any House Member who believes he or she can go home and say to their constituents: Well, I never voted for the Senate-passed bill is, frankly, not going to get away with it because, by voting for the rule, they will have voted for the Senate-passed bill.

It seems to me this is the time for principled Members of the House of Representatives to stand and say: Enough. I may even somewhat like what we are trying to do with this health care legislation, but somebody has to stand for principle, and principle means, at a minimum, voting for legislation that you send to the President for his signature—not standing behind a rule which deems legislation to have been passed, even though it was never separately voted on.

It seems to me, first of all, we should make it crystal clear we will make this famous to the American people, if in fact they decide to use this process—something that has never been used for a bill such as this before. This so-called deeming rule will become part of the lexicon of American political discourse, and people will come to know it, just like they did the House banking scandal and certain other things here in Washington, to represent a time period and a group of people who were willing to violate all rules of sensibility, of morality, as well as legality in order to try to accomplish ends that could not be accomplished in other ways.

Nobody who votes for this rule and then later claims they did not have anything to do with passing this Senate bill is going to be able to get away with that. The American people will understand it. Frankly, whether they are sympathetic to the underlying health care legislation, they are not going to be sympathetic to Members of the House of Representatives who decide to do this kind of end run, this sort of scheme to deem a bill passed that has never been separately voted on in that body.

I hope the health care legislation we have now debated for a year can stand or fall on its merits. The American people have made it clear they do not want this legislation. Twenty-five percent do, but seventy-three percent have said either stop altogether or stop and start over. That is what we should be doing. Because of this wave of opposition by our constituents, our colleagues in the House should not try to get around that by using a procedure that is totally inappropriate to the purpose.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. KYL. Mr. President, might I make a parliamentary inquiry: Is there more time remaining on the Republican side?

The PRESIDING OFFICER. Fifty-one minutes.

Mr. KYL. Thank you, Mr. President.

What I would like to do, until Senator GRASSLEY arrives—I first ask

unanimous consent to have printed in the RECORD a letter from Gov. Janice K. Brewer of Arizona, dated March 10, 2010, to President Barack Obama.

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

EXECUTIVE OFFICE,
STATE OF ARIZONA,
Phoenix, AZ, March 10, 2010.

Hon. BARACK OBAMA,
President of the United States, The White House, Washington DC.

DEAR MR. PRESIDENT: We share common ground in that we have both been called to lead during some of the most difficult times our nation has faced. Like you, I hear painful stories on a regular basis from people who are struggling to survive.

Yet in their time of need, our state government is on the brink of insolvency.

During this downturn, Arizona has lost the largest percentage of jobs in the United States. The flagging economy has resulted in a loss of state revenues in excess of 30%, placing tremendous pressure on our state budget. Today, Arizona faces one of the largest deficits of any state.

There is no doubt that this fiscal calamity has been compounded by the enormous spending increases we are facing as a result of our Medicaid program, which has seen population growth of almost 20% in the past 12 months.

It is for that reason I write to you today.

You have repeated on several occasions that the debate on health care reform has consumed the past year and you most recently called on Congress to vote the measure ''up or down''. As the Governor of a state that is bleeding red ink, I am imploring our Congressional delegation to vote against your proposal to expand government health care and to help vote it down.

The reason for my position is simple: we cannot afford it. And based on our state's own experience with government health care expansion, we doubt the rest of America can, either.

Arizona is one of a few states that have pursued health care policies similar to those that you are proposing for the nation. In 2000, Arizonans voted to provide health care coverage up to 100% of the federal poverty limit for all residents, including childless adults, through the expansion of the state's Medicaid program.

While the expansion resulted in a modest reduction in the state's uninsured rate, the voters did not earmark adequate funding for the expansion and, as a result, our expenditures have become unsustainable, exploding from $3.0 billion to $9.5 billion during the past decade. Based on our state's own experience with underfunded government health care programs, Arizona can serve as a case in point for what will happen across our nation if your proposal is enacted.

Even with generous and enhanced federal matches, as well as recognition as one of the country's best Medicaid models, the program today demands nearly one in five state dollars. As a result, we find ourselves even more limited in our ability to invest in other critical state services, such as education and public safety, not to mention job creation and other economic development activities.

Unfortunately, your proposal to further expand government health care does not fix the problem we face in Arizona. In fact, it makes our situation much worse, exacerbating our state's fiscal woes by billions of dollars. Following are some of Arizona's concerns:

Makes Arizonans pay twice to fund other states' expansions—Your proposal continues the inequities established in the Senate bill with regard to early expansion states. While there is some mention of additional funding for states that have already expanded coverage, it is clear it will not fully cover the costs we will experience as a result of the mandated expansion. Therefore, Arizona taxpayers will have the misfortune to pay twice: once for our program and then once more for the higher match for other states.

Makes states responsible for financing national health care—In addition, your proposal, as well as the Senate bill it is based on, effectively terminates the partnership that has existed with the states since the inception of Medicaid. For 28 years, Arizona and the federal government have been partners in administering the Medicaid program. States have been provided with important flexibility to develop and create programs that work for their citizens. However, under your proposal, more power is centralized in Washington, DC, and the states become just another financing mechanism. Not only will states be forced to pay for this massive new entitlement program our ability to control the costs of our existing program will be limited. These policies are simply not sustainable, and will result in a greater burden on state budgets and state taxpayers.

Creates a massive new entitlement program our country cannot afford—Your proposal creates a vast new entitlement program that our country does not have the resources to support. Our nation faces trillion dollar deficits far into our future. Medicare has an unfunded liability of $38 trillion, and physicians are destined to realize a 21 percent decrease in Medicare reimbursement until Congress finally accounts for the $371 billion in additional costs associated with their rates.

Mr. President, I am concerned that Washington does not recognize the fiscal realities states are facing, and likely will continue to face, for several years to come. Our country is living beyond its means and the federal government is leading the way by its example.

As Governor, it has been a painful process to move the State towards fiscal sanity. I have even proposed a temporary revenue increase, something I have never done in my 28 years of public service, to help mitigate impacts to education, public safety, and health services for our most extremely vulnerable citizens. Though Arizona's budget deficit is not of my creation, I am firm in my determination and responsibility to resolve it. I believe we have a moral imperative as leaders to not bankrupt and diminish the capacity of future generations.

I understand that there are tremendous pressures to show some progress on health care given the time and effort that has been spent to date on this important issue. Indeed, improving access to quality health care is a laudable goal. However, the approach being taken by your administration has been proven by states like Arizona to be unsustainable in the long run.

Mr. President, I humbly request that you heed Arizona's experience and reconsider your proposed policies that will further strain already overburdened state budgets.

Thank you for your consideration, and for your tireless efforts on behalf of our citizens.

Yours in service to our great nation.

Sincerely,

JANICE K. BREWER,
Governor.

Mr. KYL. Let me briefly describe the reason for this request.

Arizona is suffering, as are other States, from the economic downturn. We have an unemployment rate now that has more than doubled. In fact, it has gone from 3.6 percent in June of 2007 to 9.2 percent this month. Our State faces a $1.4 billion shortfall in the current fiscal year and a $3.2 billion shortfall for the next fiscal year, despite the fact that the Governor and the State legislature have imposed significant spending reductions.

State revenues are down by 34 percent. Notwithstanding this, over 200,000 Arizonans have enrolled in the State's Medicaid Program, known as AHCCCS—which is our Arizona health Care Cost Containment System—just since the beginning of 2009. That is nearly 20,000 new enrollees every month. The last thing, given these kinds of numbers, Washington should be doing is making the States' economic or fiscal problems even worse. Yet that is exactly what Governor Brewer says the Senate health care bill would do because it would require every State to expand its Medicaid Program.

The Federal Government would foot the bill for 3 years. Then the States would have to help finance the expansion in 2017 and in subsequent years. She estimates the bill would increase the cost in Arizona by nearly $4 billion over the next 10 years. Making matters worse, the early expansion States—States such as Arizona that have already expanded Medicaid to cover the uninsured, as I noted—will actually get fewer Federal dollars than the States that have not yet expanded their Medicaid Programs, in effect punishing those who have tried to do the right things—the exact things Democrats have wanted in the health care bill.

As she observed in her letter:

> Arizona taxpayers will have the misfortune to pay twice: once for [Arizona's] program and then once more for the higher match for other states.

Additionally, States currently retain important flexibility in administering their Medicaid Programs so they are not caught off-guard as the economy changes. But as Governor Brewer notes, that flexibility would be eliminated under the Senate bill. She says:

> Under your proposal, more power is centralized in Washington, DC, and the states just become another financing mechanism. Not only will states be forced to pay for this massive new entitlement program, but our ability to control the costs of our existing program will be limited. These policies are simply not sustainable, and will result in a greater burden on state budgets and state taxpayers.

Mr. President, since I put the letter in the RECORD, I will not reflect further on it but note the fact that this is yet one more reason for Members to oppose the Senate-passed bill in the House.

The PRESIDING OFFICER. The Senator from Iowa.

HIRE ACT

Mr. GRASSLEY. Mr. President, one of the provisions the Democratic leadership decided to put in this HIRE bill is the expansion of Build America Bonds. Build America Bonds is a very rich spending program; however, it is

disguised as a tax cut. One Democratic Senator was asked why the Build America Bonds program is viewed differently than appropriations, and she replied: It has a good name.

Ironically, the Finance Committee is returning to its roots of doing appropriations bills. When our committee was established in 1816, the Finance Committee handled the major appropriations bills that came before Congress.

Mr. President, I ask unanimous consent that a portion of the document outlining the history of the Finance Committee be printed in the RECORD.

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

This vote of no confidence proved a turning point in jurisdiction over tariff bills. . . . Beginning in 1834, all tariff bills were referred initially to the Finance Committee. The important Tariff Act of 1842 was handle by the Finance Committee, as were a number of minor bills in the decade following the Compromise Tariff of 1833.

In 1846, a bill to reduce tariffs was passed by the House and sent to the Senate on July 6. The Senate leaders wished to take the bill up on the Senate floor immediately; a motion to refer it first to the Finance Committee was narrowly defeated 24 to 22. After 6 weeks of floor debate, it was referred to the Finance Committee on July 27 by a 28 to 27 vote, with detailed specific instructions on what to report. The following day the committee asked to be discharged from further consideration of the bill. A motion to refer the bill to a special committee, with similar detailed instructions, was defeated 27 to 27 (with the Vice President opposing the motion), the bill was then passed with the Vice President voting for the bill, thereby breaking a tie vote of 27 to 27.

For the next decade, there was no serious challenge to the Finance Committee's jurisdiction over tariff measures. The tariff-reducing Tariff Act of 1857 was handled by the Finance Committee; an attempt to prevent referral of the 1861 Tariff Act to the Finance Committee was defeated, 29 to 27 (though subsequent to Finance Committee action, a select committee was appointed to consider the bill further).

Appropriation bills.—Though the Finance Committee was to become the major committee handling appropriations before the Civil War, this role was not established immediately upon the creation of the committee in 1816.

In the earliest years of the committee's existence, there were only three major appropriation bills to be considered each year: for the Army, for the Navy, and for the civil functions of Government. In the first session of the 14th Congress, while the Finance Committee was still a select committee, the Army appropriation bill was handled by the Select Committee on Military Affairs; the Navy appropriation bill was handled by the Select Committee on Naval Affairs; and the general Government appropriation bill was referred to a specially created select committee none of whose members served on the select Committee on Finance and an Uniform National Currency).

The next year, when the standing Committee on Finance was established it took over the responsibility for the Army and general Government appropriation bills. The Navy appropriation bill continued to be handled by the Committee on Naval Affairs until 1827 (with the exception of the 2 years 1821 and 1822), when the Finance Committee was assigned the bill.

One of the appropriation actions in the early years of the Senate Finance Committee related to the Louisiana purchase, which had been made in 1803. Of the $15 million cost of the purchase, $3.75 million was retained by the United States to pay claims of U.S. citizens for damages incurred (mostly at sea at the hands of the French). The remaining $11.25 million was provided in 6-percent bonds payable in four annual installments, from 1818 to 1821. Since Napoleon wanted cash rather than bonds, he sold them to two international bankers for about $10.2 million. The bankers held the bonds until maturity: when they were paid, the Senate Finance Committee had jurisdiction over the appropriation bills. The total cost of the Louisiana purchase to the United States, including interest and American damage claims, was $23.5 million less than 3 cents an acre for the entire territory.

New appropriation bills were not always referred to the Finance Committee. An annual bill appropriating funds for Revolutionary War pensions was first referred to the Committee on Pensions: not until 1830 was Finance Committee jurisdiction over appropriations for this purpose firmly established. Appropriations related to Indian treaties were first handled by the Committee on Indian Affairs; transfer of jurisdiction to the Finance Committee took several years, and it was not until 1834 that all Indian appropriation bills began to be referred to the Finance Committee.

From this time on, jurisdiction over appropriation bills remained virtually unchanged until the Civil War. The Finance Committee was given basic responsibility for appropriations, with the sole exception of public works appropriation bills (which were referred either to the Committee on Commerce or the Committee on Territories, depending on the location of the projects).

Mr. GRASSLEY. Bloomberg News reported that large Wall Street investment banks were charging 37 percent higher underwriting fees on Build America Bond deals than on other tax-exempt bond deals. Therefore, American taxpayers appear to be funding huge underwriting fees for large Wall Street investment banks as part of the Build America Bonds.

The Wall Street Journal article, dated March 10, 2010, stated, Wall Street investment banks have made over $1 billion in underwriting fees on Build America Bonds in less than 1 year.

The Wall Street Journal article, based on data from Thomson Reuters, stated underwriting fees on Build America Bond deals are higher than those for tax-exempt bond deals. That sounds like a great deal for the high rollers on Wall Street. But how about the taxpayers back on Main Street America who have to pick up this tab?

The Democratic leadership has said the Build America Bonds program is about creating jobs. But I wish to know whether it is about lining the pockets of Wall Street executives.

Recently, I asked the CEO of a large Wall Street investment bank a number of questions about these larger underwriting fees that are subsidized by the American taxpayers. He confirmed that the underwriting fees for Build America Bond deals are larger than those of tax-exempt bond deals.

The Senate and House have recently passed different versions of the bill we are currently debating which includes a provision that expands the Build America Bonds program created in the stimulus bill. One would assume it was just a temporary provision and extend that to four types of tax credit bonds. I will give those four types. Before I do, I remind my colleagues that this is another example that the word ''temporary'' does not apply to very many things in Washington, DC, because it does not take long for a temporary program to become a permanent program.

I talked about four types of tax credit bonds. They are the qualified school construction bonds, qualified zone academy bonds, clean renewable energy bonds, and qualified energy conservation bonds.

The Build America Bonds program contains an option for the issuer of bonds which is a nontaxpaying entity to receive a check from the Treasury Department based on a percentage of the interest cost incurred by the issuer. Some refer to this option as the direct pay option.

The percentage of the interest costs on the four tax credit bonds subsidized by the American taxpayers under the direct pay option in the Senate bill is a whopping 45 percent and is increased to 65 percent for small issuers. ''Small issuers'' are defined as those issuing less than $30 million in bonds per year.

The House version increased the direct payment subsidy to 100 percent for qualified school construction bonds and qualified zone academy bonds, and increased the subsidy to 70 percent for clean renewable energy bonds and the qualified energy conservation bonds.

Let me put this in context.

The Build America Bonds program created in the stimulus bill contains a 35-percent direct pay subsidy, and the President has proposed in his fiscal year 2011 budget that it be lowered to 28 percent.

It was reported in the March 11, 2010, Bond Buyer article that a senior House staffer asserted that no issuers would opt to issue direct pay bonds under the lower Senate rates of 45 and 65 percent.

When I read that assertion, I asked the Finance Committee Republican staff to reconcile that assertion with the scoring of the Build America Bonds proposal in the Senate-passed bill.

The Republican staff of the Finance Committee reviewed the Joint Committee on Taxation's final estimate of the Senate-passed bill and found that the senior House staffer's assertion was directly contradicted by the estimate provided by the Joint Committee on Taxation, which everybody knows is the nonpartisan official scorekeeper for Congress on any tax matters. In fact, footnote 2 of the estimate of the Senate Build America Bonds provision states that the Joint Tax Committee's estimate of the Senate direct pay bonds option includes an increase in outlays of—let's say $8 billion. This means the Joint Committee on Taxation estimates assumed that a large number of issuers would elect to use

the direct pay option, contrary to that House staffer's assertion.

The Bond Buyer—that is a publication—the Bond Buyer also reported that the senior House staffer stated:

> There is nobody that I know who does not view the Build America Bonds program as an enormous success, with the possible exception of one person.

I assume that staffer was referring to me. There are many Federal taxpayers who do not view the Build America Bonds program as an enormous success. To understand why, let's see which States benefit the most from the Build America Bonds.

In looking at data from Thomson Reuters on the 10 largest Build America Bonds deals, California alone issues 73 percent of those bonds. Between California and New York, those two States alone issue 92 percent of the bonds from the 10 largest Build America Bonds deals. California and New York are the biggest winners under the Build America Bonds, while American taxpayers from the remaining 48 States subsidize these States.

As Senator KYL pointed out in his ''Dear Colleague'' letter on Build America Bonds circulated on March 15, the Build America Bonds program actually rewards States for having a riskier credit rating by giving them more money. Build America Bonds creates a perverse incentive that causes State and local governments to borrow more than they otherwise would borrow. This is especially true regarding the school tax credit bonds.

This bill creates incentives where States and local governments should not even care what the interest rate is. The American taxpayers are picking up 100 percent of the interest cost. Actually, the cost borne by the American taxpayers is, in fact, more than 100 percent. At least with tax credit bonds, the taxpayers include the amount of the tax credit in income and the Federal Government collects taxes on that income. The only purchasers of tax credit bonds are those who have tax liabilities; otherwise, it makes no sense to buy tax credit bonds. However, Build America bonds are technically taxable bonds. But most of the investors do not pay tax on these bonds.

For example, under our tax rules, if a foreign person or a pension fund or a tax-exempt entity buys a Build America Bond, they do not pay tax on the interest they receive. Thus, the Federal Government not only cuts a check for 100 percent of the bond's interest cost, but it also loses most of the revenue it would have collected from the tax credit bonds.

State and local governments can view this Federal money as what it really is—free money—because they do not have to collect it from their residents. Therefore, of course, State and local governments turn out to be very big fans of the Build America Bonds program. They get Federal money that they do not have to pay back. The large Wall Street investment banks love Build America Bonds. Why? Because they are getting richer off those bonds.

However, we all know there is no such thing as a free lunch. Washington is an island surrounded by reality. Consequently, everybody in this town thinks there are free lunches, and the common sense of the rest of the country has difficulty getting inside this island. It is our responsibility to point out that in this city, this District—the only real industry is government—you cannot have everybody in the wagon. In this town, everybody is in the wagon. Everybody outside the District is pulling the wagon. That cannot go on very long.

There is no such thing as a free lunch. Federal taxpayers are footing the bill for this big spending program, which only gets bigger every time Congress touches it. This legislation before us is just an example. As this program that started out as a little program in the stimulus bill—and presumably the word ''stimulus'' means temporary, doesn't it? But this is not turning out to be temporary and it is not turning out to be small because it has just been enhanced greatly in the other body. The American taxpayers are the ones we ought to be looking out for, and a temporary program ought to be temporary and a stimulus program ought to be stimulus and nothing else. And here we are expanding it.

The American taxpayers are the ones who, in the words of the senior House staffer, do ''not view the Build America Bonds program as an enormous success.''

I urge my colleagues to look beyond the fancy, well-funded lobbying campaign for this rich subsidy. Take a look at who wins. The winners are big Wall Street banks. Maybe a small number of governments will issue bonds they otherwise would not. Main Street is not helped very much by this program. The only certainty is that the Federal taxpayers are on the hook for the interest costs.

With record budget deficits under this Congress and administration, we cannot casually look away as new, open-ended subsidies are proposed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

YUCCA MOUNTAIN

Ms. MURKOWSKI. Mr. President, last Wednesday, the Department of Energy submitted a motion to the Nuclear Regulatory Commission to withdraw its license application to construct a spent nuclear fuel and high-level radioactive waste repository at Yucca Mountain. What was the latest rationale for this? Simply because we need it too much.

That might seem like creative interpretation on my part, but just last week, Secretary of Energy Steven Chu noted that due to the revival of the nuclear industry, Yucca Mountain's repository would hit its statutory capacity limit in the next several decades and would not meet future industry needs. Instead of moving forward with a permanent repository that billions of dollars have already been spent on and simply expanding the arbitrary limit the law puts on the size of the repository, spent nuclear fuel from commercial nuclear reactors will be stored onsite at over 100 locations across the country for at least the next several decades.

If we do have the nuclear revival that many of us believe is needed to reduce greenhouse gas emissions and meet our energy needs, the number of onsite storage locations across the country will only increase.

Not only is the Department of Energy seeking to withdraw its license application—and I am not absolutely convinced they have the authority to do so—they are seeking to withdraw it ''with prejudice,'' making it very difficult, if not impossible, to resurrect Yucca Mountain as a possible option for spent nuclear fuel and high-level radioactive waste, regardless of what future scientific and engineering advances may offer and regardless of what the administration's blue ribbon panel that is directed to consider all of the options may conclude.

In fact, the Department of Energy argues in its motion that ''scientific and engineering knowledge on issues relevant to disposition of high-level waste and spent nuclear fuel has advanced dramatically over the 20 years since the Yucca Mountain project was initiated.''

Apparently, the Department is also arguing that scientific and engineering knowledge on the same issues will not advance any further over the next several decades to address issues with the Yucca Mountain site.

Setting the legal issues aside surrounding the Department's motion to withdraw, I wish to focus for a moment on what stopping work on the Yucca Mountain site will actually cost the American taxpayers.

Under the Nuclear Waste Policy Act of 1982, the Federal Government has a contractual obligation to collect spent nuclear fuel from individual nuclear powerplants starting in 1998. The government has clearly missed on that deadline.

According to the Department of Justice, the Federal Government has so far paid $565 million in settlement costs for breaching this contract with the utilities. I say ''so far'' because the ultimate cost to the American taxpayer we know is going to be much higher.

Utility companies have filed 71 cases in Federal court alleging the Department of Energy's delay in taking title to spent nuclear fuel is a breach of contract. Of those 71 lawsuits, 10 have now been settled, 6 were withdrawn, and 4 were fully litigated, resulting in the $565 million in payments. Of the 51 cases that are outstanding, then, the

judgment has been entered in 13 of those cases, putting government liability, so far—so far—for commercial spent nuclear fuel stored onsite between 1998 and 2007 at a cost of $1.3 billion. And there remain another 38 cases for judgment to be entered on, so the amount of the liability for that timeframe is likely to increase significantly in the future. Keep in mind, this number does not take in account the level of liability for the increasing amount of spent nuclear fuel stored onsite from 2008 until the date when a permanent repository is opened, whenever that might be, nor do the costs include the $24 million in attorney costs, $91 million in expert funds, $39 million in litigation support costs, or the thousands of hours the DOE and the NRC employees have already expended on this effort.

The Department of Energy estimates that the potential liability of the Federal Government to utilities will be $12.3 billion—if the government starts taking title to the spent fuel by 2020, just 10 years from now. According to the CBO, the Congressional Budget Office, utility industry reports estimate that the claims will total $50 billion. And both of these estimates were developed before the administration took steps to withdraw the Yucca application. So we have liability estimates of between $12 billion and $50 billion in taxpayer money—if a repository is opened and accepting spent fuels in the next 10 years. Keep in mind, it took us almost 30 years to get this far on Yucca Mountain. With the current administration shutting down all work on Yucca and beginning the search for a solution anew, it seems increasingly likely that the costs will greatly exceed the $50 billion estimate.

At a time when we are already racking up trillions of dollars in debt for future generations, the administration has freely chosen—freely chosen—to incur additional future taxpayer liability in terms of tens of billions of dollars by withdrawing the Yucca Mountain repository license application because, in the words of Secretary Chu, ''the statutory limit of Yucca Mountain would have been used up in the next several decades.''

So all Americans are on the hook for tens of billions of dollars because the Federal Government is in breach of its contract to take title to spent nuclear fuel. But it gets even better for those Americans whose utility gets some of its electricity from nuclear power plants: You get to pay twice. In return for the Federal Government taking title to commercial spent nuclear fuel, the Nuclear Waste Policy Act established a nuclear waste fund to provide for the construction of a spent nuclear fuel and high-level radioactive waste repository. Utilities that operate under nuclear power reactors are charged a fee by the Secretary of Energy, and that fee is then deposited into the waste fund. The cost of that fee is passed on from the utility to the consumer. The utilities, and then hence their customers, contribute between $750 million and $800 million into the waste fund each year.

As of September 30, 2009, payments and interest credited to the fund totaled just over $30 billion. That is a substantial amount of money. However, there are restrictions on what those funds can be used for. Funds from the nuclear waste fund may only be expended for the construction of a facility expressly authorized by the Nuclear Waste Policy Act or subsequent legislation. The only facility that meets this description is Yucca Mountain. Yet the Obama administration has shut down work on Yucca and filed a motion to withdraw its license application. So the natural question is, What happens to the money in the nuclear waste fund since it can't be spent on anything other than the construction of the Yucca Mountain repository? Well, the Nuclear Waste Policy Act directs the Secretary of Energy to adjust the fee paid by the utilities if the amount collected is insufficient or in excess of the amount needed to meet the cost of construction of the repository. It is hard to see how the $24 billion balance in the fund is not sufficient to pay for work on a facility where no more work will ever occur.

Utilities have been suggesting that the fee be dispensed with, but Secretary Chu said that the collection will continue. So some ratepayers will continue to pay a higher electricity bill to contribute to a fund that no longer serves a purpose, at least until the courts should rule otherwise. If—or perhaps when—the courts order the reduction of the fee and the refund of the balances already paid into the fund, you can add the loss of over $750 million in income to the Federal Government per year, as well as the refund of the $30 billion already collected, to the taxpayers' debt.

Mr. President, I have focused on the impact stopping work at Yucca Mountain will have on the commercial operations and the individual taxpayer, but the license application withdrawal will also impact those 13 States that host Federal sites that hold high-level radioactive waste from the production of nuclear weapons dating back to the Manhattan Project. These are, most notably, Hanford, WA; Savannah River, SC; and the National Engineering and Environmental Lab in Idaho. Just as utilities have sued the Federal Government for breach of contract, the decision to terminate Yucca should open the door to a lawsuit from a State such as Idaho, which has a court-approved agreement with the Department of Energy to remove nuclear waste from the State by the year 2035.

I am also concerned that in the administration's haste to suspend the work on Yucca Mountain, valuable scientific data will be lost—for example, as the Sustainable Fuel Cycle Task Force noted, long-term corrosion samples containing decades of information that is irreplaceable.

To quote the task force, they say:

> Scientific information developed at considerable cost in the Yucca Mountain program should be preserved to assist in future repository development, wherever that may be.

I call upon the administration to preserve the data it has collected so far. I support moving forward with the Yucca Mountain license application, but if the motion to withdraw the application is successful, the knowledge and data received so far in the process will be valuable for future repository siting needs.

Mr. President, taxpayers are on the hook for tens of billions of dollars. Some are paying twice for a repository that is being taken off the table. States are left with Federal holding sites that contain high-level radioactive waste. Valuable scientific data is at risk of being lost forever. And all the administration can offer in return is a 2-year delay while a panel studies the issue and offers a report.

It is encouraging to hear the administration voice its support for the development of additional nuclear power and back those words with a request for greater loan guarantee funding. That is good. But in order to have support for new nuclear at a national level, there must be support among the communities which host existing nuclear powerplants. I am increasingly concerned that until we can resolve what to do with the back end of the nuclear fuel cycle, local support for nuclear will erode as questions about how long the spent fuel will be stored onsite persist.

With the withdrawal of the Yucca Mountain license application, we are essentially back to square one, and the American taxpayer will continue to pay the cost—without receiving any answers.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, am I correct that, procedurally, I am speaking in morning business?

The PRESIDING OFFICER. That is correct.

HEALTH CARE

Mrs. HUTCHISON. Mr. President, I rise today to speak on this health care reform bill that is purportedly going through the House right now. I just have to speak on it because it is so obvious that the American people do not want this bill, and yet now the Democrats seem to be pushing it through the House with these elaborate procedures. So I want to talk about it, as I know many others on this floor are doing and have done, because really the only way we can bring to the attention of the American people what is going on here is to talk about it—both process as well as substance.

The health care bill that passed this Senate last December, on Christmas Eve, was passed really under a cloud,

and the American people immediately saw that big cloud on the horizon, for sure. The bill has been bandied around so much that the American people have finally come to the conclusion that what was passed was not in the best interest of America. So we are still debating this legislation, and the reason is the American people don't want this bill. Why do they not want it? They know it will do great harm to our economy—one-sixth of the whole economy of our country—and it is not going to significantly change the course of our Nation's spending on health care, nor is it going to add to its quality. The Senate bill is a failure in terms of resolving the concerns Americans have with our current health care system.

Most of us in this Chamber agree that the health care system today is not what it needs to be and that it is not sustainable. And we can probably agree on the causes—No. 1, health care costs are going up, and No. 2, a lot of people can't afford and don't have access to health care insurance. So limited access to affordable options and rising costs. But this bill makes it worse, not better.

The bill is so bad that the President and the leadership in Congress are going to use the unique budget procedure known as reconciliation to force additional health care measures through Congress. In fact, they are even talking about not actually passing the bill that passed the Senate—without any minority votes—in December, and they are talking about ''passing it'' by deeming it in the House, which means Members of the House won't actually vote on it, because it is so bad. Well, how much sense does that make?

The media is continuing to speculate about whether the Speaker of the House can secure the votes needed to pass the Senate bill as well as a new unseen, unknown additional bill that would change the bill that passed the Senate and take out some of its flaws. We haven't seen this new bill, either, and we are talking about getting it over on the Senate side next week.

Amid this media storm of speculation on whether a bill can be passed using reconciliation, we need to talk about why this bill represents the wrong approach to health care reform.

No. 1 is the cost of the bill. The bill costs more than $2 trillion. Some may try to say it is actually less than that, but the truth is, there are 10 years of tax increases and 10 years of Medicare cuts to pay for 6 years of spending. Yes, that is right. The taxes start immediately, the Medicare cuts start immediately, and 4 years from now there will be presumed options for people to be able to have affordable health care. The true 10-year cost of this bill is $2 trillion.

More taxes. The bill imposes 10 years of taxes—$½ trillion of tax increases—most of which will start immediately or very shortly. More than $100 billion in taxes on prescription drug companies, medical device manufacturers, and insurance companies is going to be levied. What do those taxes mean? Well, clearly, every study shows and every economist says those taxes will be passed on to individuals. They will be passed on to individuals in the form of higher cost for prescription drugs and higher cost of insurance premiums and medical devices. That all starts before we ever see any kind of affordable health care options.

I offered an amendment in the December debate that would say no taxes start until services are provided. I thought that was a pretty clear tax policy, one that maybe the American people would at least say: OK, at least it is fair; the taxes don't start until the services start.

Of course, my amendment was rejected. Now we have the bill that was passed which is 10 years of taxes for 6 years of services. There are taxes on those who cannot afford insurance, the higher of $750 per individual or 2 percent of household income. That is the tax on people who do not purchase insurance. Employers are also hit with new taxes. The penalty could be as high as $3,000 per employee under the Senate bill.

What will this do to small businesses, which create 70 percent of the new jobs in our country? In a letter sent to the majority leader, the Small Business Coalition for Affordable Health Care stated ''with the new taxes, mandates, growth in government programs and overall price tag, the Patient Protection and Affordable Care Act,'' the health care reform bill, ''costs too much and delivers too little.''

That is pretty succinct, the Small Business Coalition speaking out and saying this bill costs too much and delivers too little. Small businesses are reeling. We are in a time when families are struggling to pay their mortgages, struggling to find a job, struggling to pay bills, and businesses are having a hard time, too, and they are not hiring. What are we doing? Providing more burdens on small businesses and expecting them to hire more people. This is so counterintuitive that the American people certainly see what is happening.

Those are all the taxes. The other side is the cuts to Medicare. The Senate bill includes $½ trillion in cuts to Medicare over 10 years, including $135 billion in cuts to hospitals. The Medicare Program is unsustainable. The Chief Actuary of Medicare has said as much as 20 percent of Medicare's providers will either go out of business or will have to stop seeing Medicare beneficiaries. Millions of seniors, including those who have chosen Medicare Advantage, will lose the coverage they now enjoy. Medicare is being used as a piggy bank, and it needs every penny that has been deposited. We cannot reform all of the health care system on the backs of our seniors. Cuts to hospitals will threaten access for seniors.

We have been asking the leadership of Congress to scrap this bill and work with Republicans to achieve the reform that Americans want, reform that will reduce costs, increase competition, and improve access. This bill achieves none of that. I cannot understand why the President chose to base his proposal for reform on the Senate bill that was passed by the Senate, but the American people have consistently opposed it. Every poll shows the American people do not want the Senate bill. They saw it for what it was, a failure.

I hope the Members of Congress who are being cajoled into voting for this bill will listen to the American people. They do not want the government to take over their health care. They want affordable access, and that means we have to bring the costs down and give more options.

Let's talk about the right kind of reform, what Republicans are putting on the table: more choices. How about allowing small businesses to pull together so their risk pool is increased and costs are lowered; and create an online marketplace where the public can easily compare and select insurance plans. But it would be a marketplace that is free from mandates and government interference. The one that is in the Senate bill had so many mandates and so many requirements that the costs are going to be out of sight.

So what happens? In comes the government plan to supplant the new higher cost options because of all the taxes that have been put on the companies that are trying to provide health care.

No. 2, how can we reduce costs and lower expenses? For one thing, we could reform our litigious system of tort law that punishes doctors and hospitals. It drives physicians away from the practice of medicine. Tort reform alone could save at least $54 billion. That is the low end of the projections of what tort reform could save.

No. 3, we could lower the cost to taxpayers by giving tax incentives to encourage the purchase of health insurance. We do not have to have a government takeover, and we don't have to have new taxes. Let's give incentives, tax breaks for individuals and families who will buy health insurance. We will help them have affordable access. Senator DEMINT and I have a bill that would offer a voucher to families: $5,000 for a family to purchase their own health insurance, to go on the exchange, to determine what they can afford, to determine what their needs are, and it is not tied to their employer so it is portable, so it is theirs and they own it. No preexisting conditions would ever keep them from having that policy again, and they could take it to whatever employer they decided to work for. They would not be tied to employment for health care coverage.

These are options the Republicans have given to the majority to ask them to consider in a bill that would reform health care in the right way.

I urge my colleagues to listen to their constituents. Their constituents are speaking in volumes at a time

when we are seeing political games being played on the House side to strong-arm people to vote for a bill that their constituents do not want, and then they are going to send it over to the Senate with a new bill that is going to, supposedly, correct the problems in the Senate bill—except that we will still have the taxes, we will still have the increased costs, we will still have the cuts to Medicare. All of that will remain. It is a flawed bill.

Please, Members of Congress, listen to your constituents and let's start again and do this right. That is what the American people are asking for. It is the least that we owe them: not to pass a bill that is going to destroy one-sixth of the American economy and take away the choices that Medicare patients have, cut the services of Medicare, and tax every employer and every family whether they have not enough health insurance, no health insurance, or too much health insurance. They are going to be taxed no matter which way they go. That is not health reform. That is a government takeover of a system that needs improvement, but not killing.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15.

Thereupon, the Senate, at 12:39 p.m., recessed until 2:15 and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

TAX ON BONUSES RECEIVED FROM CERTAIN TARP RECIPIENTS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1586, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1586) to impose an additional tax on bonuses received from certain TARP recipients.

Pending:

Rockefeller amendment No. 3452, in the nature of a substitute.

Sessions/McCaskill modified amendment No. 3453 (to amendment No. 3452), to reduce the deficit by establishing discretionary spending caps.

Lieberman amendment No. 3456 (to amendment No. 3452), to reauthorize the DC opportunity scholarship program.

Vitter amendment No. 3458 (to amendment No. 3452), to clarify application requirements relating to the coastal impact assistance program.

DeMint amendment No. 3454 (to amendment No. 3452), to establish an earmark moratorium for fiscal years 2010 and 2011.

Feingold amendment No. 3470 (to amendment No. 3452), to provide for the rescission of unused transportation earmarks and to establish a general reporting requirement for any unused earmarks.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENTS NOS. 3472, 3475, 3527, AND 3528 TO AMENDMENT NO. 3452

Mr. MCCAIN. Mr. President, I ask unanimous consent to set aside the pending amendment and that I be allowed to call up four amendments that are at the desk. They are amendment No. 3472, Amendment No. 3475, an amendment that has been at the desk on FAA reauthorization and—they are all at the desk—and the fourth concerns the Federal Aviation Administration finance proposal for development and implementation of technology for the Next Generation Air Transportation System.

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

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes amendments en bloc numbered 3472, 3475, 3527, and 3528 to amendment No. 3452.

Mr. MCCAIN. Is amendment No. 3528 on the Grand Canyon National Park?

The PRESIDING OFFICER. Yes, it is.

The amendments are as follows:

AMENDMENT NO. 3472

(Purpose: To prohibit the use of passenger facility charges for the construction of bicycle storage facilities)

On page 29, after line 21, insert the following:

SEC. 207(b) PROHIBITION ON USE OF PASSENGER FACILITY CHARGES TO CONSTRUCT BICYCLE STORAGE FACILITIES.—Section 40117(a)(3) is amended—

(1) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii);

(2) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term''; and

(3) by adding at the end the following:

''(B) BICYCLE STORAGE FACILITIES.—A project to construct a bicycle storage facility may not be considered an eligible airport-related project.''.

AMENDMENT NO. 3475

(Purpose: To prohibit earmarks in years in which there is a deficit)

At the end, insert the following:

SEC. _____. EARMARKS PROHIBITED IN YEARS IN WHICH THERE IS A DEFICIT.

(a) IN GENERAL.—It shall not be in order in the Senate or the House of Representatives to consider a bill, joint resolution, or conference report containing a congressional earmark or an earmark attributable to the President for any fiscal year in which there is or will be a deficit as determined by CBO.

(b) CONGRESSIONAL EARMARK.—In this section, the term ''congressional earmark'' means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark for purposes of Rule XXI of the House of Representatives.

(c) WAIVER AND APPEAL.—

(1) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

AMENDMENT NO. 3527

(Purpose: To require the Administrator of the Federal Aviation Administration to develop a financing proposal for fully funding the development and implementation of technology for the Next Generation Air Transportation System)

On page 84, between lines 21 and 22, insert the following:

SEC. 319. REPORT ON FUNDING FOR NEXTGEN TECHNOLOGY.

Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to Congress a report that contains—

(1) a financing proposal that—

(A) uses innovative methods to fully fund the development and implementation of technology for the Next Generation Air Transportation System in a manner that does not increase the Federal deficit; and

(B) takes into consideration opportunities for involvement by public-private partnerships; and

(2) recommendations with respect to how the Administrator and Congress can provide operational benefits, such as benefits relating to preferred airspace, routings, or runway access, for air carriers that equip their aircraft with technology necessary for the operation of the Next Generation Air Transportation System before the date by which the Administrator requires the use of such technology.

AMENDMENT NO. 3528

(Purpose: To provide standards for determining whether the substantial restoration of the natural quiet and experience of the Grand Canyon National Park has been achieved and to clarify regulatory authority with respect to commercial air tours operating over the Park)

At the end of title VII, add the following:

SEC. 723. OVERFLIGHTS IN GRAND CANYON NATIONAL PARK.

(a) DETERMINATIONS WITH RESPECT TO SUBSTANTIAL RESTORATION OF NATURAL QUIET AND EXPERIENCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for purposes of section 3(b)(1) of Public Law 100–91 (16 U.S.C. 1a–1 note), the substantial restoration of the natural quiet and experience of the Grand Canyon National Park (in this subsection referred to as the ''Park'') shall be considered to be achieved in the Park if, for at least 75 percent of each day, 50 percent of the Park is free of sound produced by commercial air tour operations that have an allocation to conduct commercial air tours in the Park as of the date of the enactment of this Act.

(2) CONSIDERATIONS.—

(A) IN GENERAL.—For purposes of determining whether substantial restoration of the natural quiet and experience of the Park has been achieved in accordance with paragraph (1), the Secretary of the Interior (in this section referred to as the ''Secretary'') shall use—

(i) the 2-zone system for the Park in effect on the date of the enactment of this Act to assess impacts relating to subsectional restoration of natural quiet at the Park, including—

(I) the thresholds for noticeability and audibility; and

(II) the distribution of land between the 2 zones; and

(ii) noise modeling science that is—

(I) developed for use at the Park, specifically Integrated Noise Model Version 6.2;

(II) validated by reasonable standards for conducting field observations of model results; and

(III) accepted and validated by the Federal Interagency Committee on Aviation Noise.

(B) SOUND FROM OTHER SOURCES.—The Secretary shall not consider sound produced by sources other than commercial air tour operations, including sound emitted by other types of aircraft operations or other noise sources, for purposes of—

(i) making recommendations, developing a final plan, or issuing regulations relating to commercial air tour operations in the Park; or

(ii) determining under paragraph (1) whether substantial restoration of the natural quiet and experience of the Park has been achieved.

(3) CONTINUED MONITORING.—The Secretary shall continue monitoring noise from aircraft operating over the Park below 17,999 feet MSL to ensure continued compliance with the substantial restoration of natural quiet and experience in the Park.

(4) DAY DEFINED.—For purposes of this subsection, the term ''day'' means the hours between 7:00 a.m. and 7:00 p.m.

(b) REGULATION OF COMMERCIAL AIR TOUR OPERATIONS.—Commercial air tour operations over the Grand Canyon National Park Special Flight Rules Area shall continue to be conducted in accordance with subpart U of part 93 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act), except as follows:

(1) CURFEWS FOR COMMERCIAL FLIGHTS.—The hours for the curfew under section 93.317 of title 14, Code of Federal Regulations, shall be revised as follows:

(A) ENTRY INTO EFFECT OF CURFEW.—The curfew shall go into effect—

(i) at 6:00 p.m. on April 16 through August 31;

(ii) at 5:30 p.m. on September 1 through September 15;

(iii) at 5:00 p.m. on September 16 through September 30;

(iv) at 4:30 p.m. on October 1 through October 31; and

(v) at 4:00 p.m. on November 1 through April 15.

(B) TERMINATION OF CURFEW.—The curfew shall terminate—

(i) at 8:00 a.m. on March 16 through October 15; and

(ii) at 9:00 a.m. on October 16 through March 15.

(2) MODIFICATIONS OF AIR TOUR ROUTES.—

(A) DRAGON CORRIDOR.—Commercial air tour routes for the Dragon Corridor (Black 1A and Green 2 routes) shall be modified to include a western ''dogleg'' for the lower ⅓ of the Corridor to reduce air tour noise for west rim visitors in the vicinity of Hermits Rest and Dripping Springs.

(B) ZUNI POINT CORRIDOR.—Commercial air tour routes for the Zuni Point Corridor (Black 1 and Green 1 routes) shall be modified—

(i) to eliminate crossing over Nankoweap Basin; and

(ii) to limit the commercial air tour routes commonly known as ''Snoopy's Nose'' to extend not farther east than the Grand Canyon National Park boundary.

(C) PERMANENCE OF BLACK 2 AND GREEN 4 AIR TOUR ROUTES.—The locations of the Black 2 and Green 4 commercial air tour routes shall not be modified unless the Administrator of the Federal Aviation Administration determines that such a modification is necessary for safety reasons.

(3) SPECIAL RULES FOR MARBLE CANYON SECTOR.—

(A) FLIGHT ALLOCATION.—The flight allocation cap for commercial air tour operations in Marble Canyon (Black 4 route) shall be modified to not more than 5 flights a day to preserve permanently the high level of natural quiet that has been achieved in Marble Canyon.

(B) CURFEW.—Commercial air tour operations in Marble Canyon (Black 4 route) shall be subject to a year-round curfew that enters into effect one hour before sunset and terminates one hour after sunrise.

(C) ELIMINATION OF COMMERCIAL AIR TOUR ROUTE.—The Black 5 commercial air tour route for Marble Canyon shall be eliminated.

(4) CONVERSION TO QUIET AIRCRAFT TECHNOLOGY.—

(A) IN GENERAL.—All commercial air tour aircraft operating in the Grand Canyon National Park Special Flight Rules Area shall be required to fully convert to quiet aircraft technology (as determined in accordance with appendix A to subpart U of part 93 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act)) by not later than the date that is 15 years after the date of the enactment of this Act.

(B) INCENTIVES FOR CONVERSION.—The Secretary and the Administrator of the Federal Aviation Administration shall provide incentives for commercial air tour operators that convert to quiet aircraft technology before the date specified in subparagraph (A), such as—

(i) reducing overflight fees for those operators; and

(ii) increasing the flight allocations for those operators.

(5) HUALAPAI ECONOMIC DEVELOPMENT EXEMPTION.—The exception for commercial air tour operators operating under contracts with the Hualapai Indian Nation under section 93.319(f) of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act) may not be terminated, unless the Administrator of the Federal Aviation Administration determines that terminating the exception is necessary for safety reasons.

(c) FLIGHT ALLOCATION CAP.—

(1) PROHIBITION ON REDUCTION OF FLIGHT ALLOCATION CAP.—Notwithstanding any other provision of law, the allocation cap for commercial air tours operating in the Grand Canyon National Park Special Flight Rules Area in effect on the day before the date of the enactment of this Act may not be reduced.

(2) RULEMAKING TO INCREASE FLIGHT ALLOCATION CAP.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue a notice of proposed rulemaking that—

(A) reassesses the allocations for commercial air tours operating in the Grand Canyon National Park Special Flight Rules Area in light of gains with respect to the restoration of natural quiet and experience in the Park;

(B) makes equitable adjustments to those allocations, subject to continued monitoring under subsection (a)(3); and

(C) facilitates the use of new quieter aircraft technology by allowing commercial air tour operators using such technology to petition the Federal Aviation Administration to adjust allocations in accordance with improvements with respect to the restoration of natural quiet and experience in the Park resulting from such technology.

(3) INTERIM FLIGHT ALLOCATIONS.—

(A) IN GENERAL.—Until the Administrator issues a final rule pursuant to paragraph (2), for purposes of the allocation cap for commercial air tours operating in the Grand Canyon National Park Special Flight Rules Area—

(i) from November 1 through March 15, a flight operated by a commercial air tour operator described in subparagraph (B) shall count as ½ of 1 allocation; and

(ii) from March 16 through October 31, a flight operated by a commercial air tour operator described in subparagraph (B) shall count as ¾ of 1 allocation.

(B) COMMERCIAL AIR TOUR OPERATOR DESCRIBED.—A commercial air tour operator described in this subparagraph is a commercial air tour operator that—

(i) operated in the Grand Canyon National Park Special Flight Rules Area before the date of the enactment of this Act; and

(ii) operates aircraft that use quiet aircraft technology (as determined in accordance with appendix A to subpart U of part 93 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act)).

(d) COMMERCIAL AIR TOUR USER FEES.—Notwithstanding section 4(n)(2)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(n)(1)(2)(A)), the Secretary—

(1) may establish a commercial tour use fee in excess of $25 for each commercial air tour aircraft with a passenger capacity of 25 or less for air tours operating in the Grand Canyon National Park Special Flight Rules Area in order to offset the costs of carrying out this section; and

(2) if the Secretary establishes a commercial tour use fee under paragraph (1), shall develop a method for providing a significant discount in the amount of that fee for air tours that operate aircraft that use quiet aircraft technology (as determined in accordance with appendix A to subpart U of part 93 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act)).

AMENDMENT NO. 3475

Mr. MCCAIN. I would like to discuss all four amendments briefly. The first is the prohibition on earmarks in years in which there is a deficit. I have been pleased and somewhat surprised over the past week to hear about the renewed bipartisan interest in banning earmarks. I am thankful for the attention and I welcome the House Democratic leadership to the fight against earmarks.

According to last Thursday's Washington Post:

> Facing an election year backlash over runaway spending and ethics scandals, House Democrats moved Wednesday to ban earmarks for private companies, sparking a war between the parties over which would embrace the most dramatic steps to change the way business is done in Washington.

I was pleased to see that the Speaker of the House and the chairman of the House Appropriations Committee have recognized earmarks for what they are: a corrupting influence that should not be tolerated in these times of fiscal crisis.

I applaud my Republican colleagues in the House and Senate, especially Senators Coburn and DeMint, who have called for a year-long moratorium on all earmarks. I fully support and join them in those efforts, but I think we need to do more.

We need a complete ban on earmarks until our budget is balanced and we have eliminated our massive deficit. This amendment promises to do just that. I encourage my colleagues to join

me in this effort. It is what the American people want. We have an obligation to give it to them.

I am pleased to be joined by my good friend from Indiana, Senator BAYH.

AMENDMENT NO. 3472

The next amendment I would like to discuss very quickly is that no funds from the passenger facility fee could be used to construct bike storage facilities at airports.

As many know, the passenger facility fee is assessed on every ticket for any flight. Currently, this fee is $4.50 per flight. During these very difficult economic times for most Americans, the bill from the House raises this fee to $7 and indexes it to inflation. It is frustrating, but it is more frustrating that taxes and fees make up as much as 25 percent of every passenger's airline ticket.

I think most airline passengers would agree with me that they would rather see more improvements to ensure faster travel times and safer departures and arrivals.

The Atlanta Journal Constitution reported earlier this year, on January 14, 2010, that $1.5 million of passenger facility fees were used for a ''function art project of glass panels laminated with patterns of tree bark.''

It sounds beautiful, but I know most Americans want these excessive fees and charges to be used effectively and for the goal that Congress intended: to improve safety and performance.

AMENDMENT NO. 3527

On the issue of the amendment concerning moving Next Generation air traffic control forward, this amendment would require the FAA to report back to Congress in 90 days with proposals for innovative financing mechanisms to further the deployment and implementation of a modernized air traffic control system known as NextGen.

Specifically, the report requires these innovative financing proposals to not increase our Federal deficit and consider public-private partnerships. As the distinguished chairman of the committee knows all so well, modernizing our outdated air traffic control system will positively impact all Americans by decreasing airport delays, improving the flow of commerce, and advancing our Nation's air quality by reducing aircraft carbon emissions.

Every day Americans sit on a runway and miss meetings, children's soccer games, family dinners, and other important events due to air traffic delays that could have been avoided if our Nation had a modernized air traffic control system.

Thousands of goods are delayed for delivery each year due to air traffic delays which results in more than $40 billion in costs each year that are passed on to consumers, according to the Joint Economic Committee.

The Government Accountability Office estimates that one in every four flights in the United States of America is delayed. The airlines have called our air traffic control system ''an outdated World War II radar system.''

The FAA's Next Generation Air Transportation System, NextGen, will transform the current ground-based radar air traffic control system to one that uses precision satellites, digital network communications, and an integrated weather system.

Moving from a ground-based to a satellite-based system will enable more flights to occupy the same airspace, meaning the ontime performance improvements would be a reality, and would triple the aircraft capacity according to airlines. However, the administration and Congress have not provided adequate funding toward air traffic control modernization, and instead continue to fund billions of dollars of earmarks. The FAA estimates it will cost up to $42 billion to implement a modern air traffic control system.

Congress appropriated $188 million for air traffic control modernization in 2008, and $638 million in 2009, then another $358 million in the fiscal year 2010 Department of Transportation appropriations bill. However, that same bill dedicated $1.7 billion on transportation earmarks. We have to stop spending billions of dollars and instead cut spending or at least spend taxpayers' dollars on worthy projects.

Again, I would like to thank the chairman of the committee for his efforts over many years on FAA modernization. There is no doubt the airlines are right when they describe our air traffic control system as ''an outdated World War II radar system.''

It is a shame that all of these years we have had attempts that failed and wasted billions of dollars in our efforts to modernize the air traffic control system, and we have failed. But we have to redouble our efforts.

As we expect the economy to recover, there will be more aircraft flying in crowded airspace. There will be a more dangerous situation unless we modernize our air traffic control system.

AMENDMENT NO. 3528

The final amendment I have is to provide standards for determining whether the substantial restoration of the natural quiet and experience of the Grand Canyon National Park has been achieved, and to clarify regulatory authority with respect to commercial air tours operating over the park.

I see my colleagues waiting, and I will not take a lot of time on this amendment. But I would like to mention to my colleagues that it was approximately 25 years ago that I proposed legislation to restore natural quiet in the great experience over the Grand Canyon National Park.

All of these years have intervened and there still have not been regulations written to implement that legislation. All of us share the same goal. We have been able to sit down, with the help of the majority leader's office, Senator ENSIGN's office, Senator KYL's office, and others to try to make progress on this important issue.

I think we have brought all parties together. I think there is consensus. So I am hoping that we will be able to adopt this amendment without further disagreement. It is important that we restore the natural quiet and experience of the Grand Canyon National Park. At the same time, it is also very important that people from all over the world have the opportunity to enjoy one of the great and magnificent experiences that any person can have; that is, to view the Grand Canyon from the air as well as from the ground.

I think this legislation represents that careful balance. I thank Senator REID and Senator ENSIGN and Senator KYL for their efforts in crafting this legislation. It is time we acted. I appreciate the indulgence of my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I would say to the good Senator from the State of Arizona that we have a number of amendments that are already more or less agreed to. More amendments are coming in, including several that he has mentioned. We want a chance to look at those to see whether those are—I heard one amendment, for example, that sounded pretty easy to do.

The earmark amendment, I actually—I am not dissing this, but I just cannot resist but point something out; that is, on earmarks, this would ban earmarks for the foreseeable future. Let me redefine that.

In the last 71 years, the Congress of the United States has not had a budget deficit in only 13 years. So you can see for the foreseeable future it is sort of a large matter. Nevertheless, we welcome the chance to look at that and work on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I rise to talk about two issues. First, I will talk about the pending business before the Senate, which is the FAA reauthorization, in a moment. I certainly want to commend my dear friend and colleague, the distinguished chairman of the Commerce Committee, for what he has done in bringing the reauthorization to the floor and the manner in which he has fashioned it.

This is an opportunity to create 150,000 jobs, modernize our system for this 21st century, save millions of gallons of fuel that get spent under a system that is antiquated, and people sitting in planes just idling, and $9 billion in lost revenue to the Nation as a result of an antiquated system. All of this will be dealt with, with the FAA reauthorization.

But before I get to that I want to speak for a moment on an item that we will be voting on tomorrow which is critically important to make sure we put the Nation back to work, the HIRE Act. One of those items I believe is incredibly important that has been getting the wrong view here is the question of the Build America Bonds. It is

one that has been debated quite a bit on the Senate floor the last couple of times we have been in session. My view is that these bonds have been one of the most successful pieces of the economic recovery package passed last year. They have helped to finance nearly $80 billion in economic development projects in all 50 States.

Those are projects that are a win-win for America. By helping States and local governments finance vital public infrastructure projects, we are putting Americans back to work; building better, stronger communities, better schools, retooling our infrastructure, and preparing for the new economy. That is what makes the Build America Bonds so effective. By lowering borrowing costs, these bonds incentivize investments in our communities across America. This gives State and local entities resources to fund badly needed projects, projects from which we all benefit.

These bonds have been a resounding success. As a matter of fact, in a November article by Stephen Gandel that appeared on time.com, it ran under this headline: ''A Stimulus Success: Build America Bonds Are Working.''

In this article, Amy Resnick, the editor in chief of a publication which follows bond markets, was quoted as saying: ''It's clearly been a success as a means of stimulating the economy.''

When we talk about stimulating the economy, ultimately we are talking about putting Americans back to work. The bill we have before us, that we will vote on tomorrow, expands this successful program to allow issuers of school construction and energy project bonds to convert these tax credit bonds into a Build America Bond. Seems like a rather simple provision to me, a commonsense provision that says if it has been successful, why not expand on it. If we can stimulate needed construction for schools and communities across America, if we have a proven way to promote putting people to work on critical energy projects, why wouldn't we do it?

Some of my Republican friends say they want to work on job creation, but I find it ironic that on one hand they speak about creating jobs, but on the other hand they criticize Build America Bonds for ''doing too much'' to create jobs and facilitate investment in vital public projects in communities across America.

You can't have it both ways. You can't blame the majority for not focusing on job creation while criticizing one of the most successful programs as having done too much. At a time of 10 percent unemployment, the question is not are we helping our communities too much; rather, the fundamental question the Congress must be focused on is how do we create more investment so we can create more jobs so that we can put more Americans back to work. The lessons of history are important. Build America Bonds, the jobs they create, the good they do, underscore some of the historic differences between this side of the aisle and the other. History tells us that in difficult economic times, creating badly needed jobs for families struggling to make ends meet strengthens the economy and helps us rebuild a better future.

In the Great Depression, Franklin Roosevelt understood the need for government to step in and create jobs. He rebuilt America's rusted old 19th century infrastructure, retooled old systems and prepared the Nation for the 20th century. History has a way of repeating itself. We should not ignore it. We should instead learn from it, learn from our great successes so we don't repeat our worst failures. A proactive government creating a jobs agenda and putting people back to work during the New Deal and rebuilding our infrastructure was one of those successes. On the other hand, a static government doing nothing to create jobs in the face of massive unemployment, as Herbert Hoover did, was one of our worst failures.

The lesson of history is clear. If we are too shortsighted to repeat the things that work, we are doomed to repeat the things that failed.

Finally, on the second issue and the pending issue before the Senate, we need this FAA reauthorization bill because it will create jobs, over 150,000. It will reduce congestion, that $9 billion lost for America by airplanes idling and people not being productive at work as they try to get to their business appointments and others who get lost along the way in terms of the time lost being with their families and friends. It also improves safety, which should be job 1. It will invest in infrastructure that will get more people to their destinations on two words we want to hear more and more, as the chairman is trying to make happen: On time.

It will address several essential safety issues related to oversight, pilot training, pilot safety, and pilot fatigue after the tragic Colgan Air crash last year in Buffalo. This bill takes several steps to ensure that, 1, an extremely high level of safety exists throughout the entire transportation system. It protects passengers from being stranded on the tarmac like those at Stewart Airport in New York who sat on a plane that ran out of food. Things got so bad that each passenger was given four potato chips and half a cup of water. That is simply ridiculous and unacceptable. This bill will put an end to these stories by requiring each airline to provide adequate provisions to stranded planes and give all passengers the right to deplane after 3 hours, if not sooner.

I salute Senator ROCKEFELLER and the members of the Commerce Committee who have worked to bring this important bill to the floor.

There are some things I hope we have offered that will be accepted into a managers' amendment. I look forward to some opportunities. We have something called the Clear Airfares Act. I believe when you buy a ticket, you should have the right to know what you are paying for. Anything short of that is simply unfair. My amendment No. 3506 would require airlines to be upfront with their fees so consumers can make an informed decision. It seems as though the airlines never have met a fee they do not like. These are some of them. We have two easels here to try to make the case. It is rather busy, but this gives you a sense to these two chart that lay out 13 common airline fees that 18 different airlines assign—fees for ordering tickets by phone, fuel surcharges, for traveling with a pet. Last year they invented a new fee. It is called the holiday fee. Because these fees don't appear alongside a ticket's base airfare, consumers have little idea of how much the ticket will eventually cost them.

I brought an example we worked on to dramatize what we are talking about here. Airline A's ticket from BWI to La Guardia appears to be $2 cheaper than airline B's ticket, $223.50 compared to $225.40. But then come the hidden fees. Airline A charges you $120 round trip to check two bags plus an additional $200 to travel with a pet. By contrast, airline B allows you to check two bags for free and charges you $150 to travel with a pet. The end result, when you add up the fees, what appeared to be the least expensive ticket for the same exact flight is actually $150 more expensive. My amendment shines a light on airline fees and surcharges so consumers have an accurate picture about what their trip is likely to cost them. We hope the committee will accept that.

We also have an amendment on focused flying which was written in response to the flight that flew 150 miles beyond its destination, allegedly because the pilots were too distracted to notice the airport. I am pleased. Working with the committee and Senator DORGAN, we were able to include language in the underlying bill that would prohibit unnecessary electronic devices from the cockpit. However, it is important we look at all pilot distractions. Our amendment calls for the FAA to conduct a study on the broader issue of distractive flying and its impact on flight safety.

The last amendment I have filed would require the FAA to monitor the air noise impacts of New Jersey, New York, and Philadelphia airspace redesign and simply provide the data to the public. I have not been supportive of the airspace redesign in part because it was done in such a way where noise impacts are rather severe. Now that the redesign is being implemented, the public has a right to know what consequences there are in that redesign and that some level of transparency should be provided to the flying public and the communities affected.

Lastly, I look forward to what I hope is an end product, as we move through this Chamber and have a conference,

that no longer makes it tougher for some workers to organize unions than others who do the same work. I believe the rules should be applied evenly across the board. Unions help improve safety standards which not only benefit workers, they touch all of us who drive on the roads and fly in the skies. I hope the ultimate result will create that opportunity. It is time we finally pass the FAA reauthorization. It will create jobs. It will make our flying experience safer. It will make it more efficient. We will save money in our economy.

I look forward to working with Chairman ROCKEFELLER to make the bill one we can continue to be proud of as we fly the skies of our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I compliment the Senator from New Jersey who is complimented far too little for doing so many good things but did a lot of them on the floor this afternoon. I appreciate what he said which is not related to aviation, about the school bond. It makes an enormous difference. It has been changed a bit to make it more effective at the State level. I appreciate the fact that he said that. And the points he made with respect to some of the amendments to the aviation bill seemed to make a lot of sense. The last one may cause some discussion, but I know the Senator and I know what is in his heart. He always speaks the truth.

Mr. MENENDEZ. I thank my distinguished colleague and chairman for his remarks and observations. We look forward to working with the committee to achieve some of these things and to achieve ultimate success with him at the end of the day.

Mr. ROCKEFELLER. You could join the Commerce Committee. You are right up there in the leadership. I respect everything the Senator from New Jersey does.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, I have just visited with Senator ROCKEFELLER. Of course, we, along with Senator HUTCHISON, are trying to pass an FAA reauthorization bill, which is not as easy as it sounds. This is not one of the most controversial or difficult or passionate issues that divide America. We have plenty of those issues around. But this is about modernizing our air traffic control system, about reauthorizing the Airport Improvement Program, improving air safety—a wide range of issues. Still, anything that is brought to the floor of the Senate these days slows down—way, way, way down—and that is the case with this bill as well. I have described it as similar to trying to walk through wet cement to try to get something through the Congress.

We have amendments pending dealing with school vouchers, putting discretionary caps on budgets, earmark reform—things that have very little or in most cases nothing to do with this underlying bill. It is just that this is an authorization bill open for amendment, so we have amendments on a wide range of issues. We also have other amendments that have been offered that are germane and relate to this piece of legislation, and we have been working through trying to put together an en bloc amendment with our staffs and Senator ROCKEFELLER's staff, working through, with other colleagues, some of the suggestions. They make a lot of sense. I think we are making progress there.

I have described before the need for this legislation. Last year, I met with some of the Europeans who are putting together the modernization program in Europe. This issue of modernization of the air traffic control system—I think I heard Senator MCCAIN talk about World War II vintage air traffic control. It is the case that for those who are now taking off this minute from National Airport, when that airplane leaves the runway and is in the national airspace, it is the case that someone in a control tower somewhere is watching that airplane. Why? Because there is a lot of traffic up there.

This is the most complex airspace in the world here in the United States, and I think the FAA, the Federal Aviation Administration, does a terrific job in operating the most complex system in the world. We have the safest skies in the world, there is no question about that. We have had one particularly fatal accident in the last year. That tragedy occurred in Buffalo, NY, with Colgan Air, in which 50 people tragically lost their lives, including the pilot and copilot and flight attendant. But the fact is, we have safe skies, and I would be the last to come to the floor of the Senate and say the American public should be worried about safety. It is the case, however, that the Colgan crash gave us a roadmap to some changes that I believe are necessary and that I and Senator ROCKEFELLER and Senator HUTCHISON have put in this bill. The issues we have discovered from that tragedy persuaded us that a number of things needed to be done.

The FAA itself has worked on aviation safety for a long while. The National Transportation Safety Board, which investigates aviation accidents, has made recommendations. In fact, they have a most wanted list. There are some recommendations that will improve air safety that have been on the most wanted list for a long, long time, some for well over a decade and not yet adopted. So the Administrator of the FAA, Randy Babbitt, has worked with us. I know he is working diligently to try to address some of those issues.

Let me mention safety in just a moment, but let me talk for a moment about modernizing the system.

When people say: Well, what is that about, it means we are moving from the tracking of that airplane that just left National Airport—I think we have about one a minute that is authorized at that slot airport, so every minute, an airplane is leaving that airport. When that airplane is at cruising altitude and on its way up to cruising altitude, it has a transponder, and that transponder is sending signals. That signal shows up on a screen. That screen is in front of an air traffic controller. That screen shows that airplane, in most cases by number, and that air traffic controller is directing that airplane with its traffic through other routes flown by other airplanes. It is all about safety, making sure airplanes can fly in a congested, crowded sky.

The dilemma—by the way, it has been relatively safe. It certainly is safer than in the old days when they first started flying at night. During the day, they would fly by sight, years and years ago. Then, at night, they would fly to bonfires. They would fly to a bonfire and then fly 50 miles to another bonfire as they carried the mail at night. Eventually they would fly to lights, and then eventually they would fly to ground-based radar. It has been around a long time.

The problem is, ground-based radar only shows where a jet plane is right at that moment—any airplane, for that matter, but a jet moves very fast, so at that nanosecond when that sweep of the radar shows that airplane in that airspace, that is exactly where it is. But a nanosecond later, it is somewhere else. Especially with a jet, with the next 5 or 7 seconds it takes to sweep the radar, that jet is somewhere other than where the dot showed it on the screen. Now we have the capability to know much more precisely than that where the airplane is, but because we only know about where that airplane is, we have to space airplanes for a margin of safety and we fly less direct routes. The result is, we use more fuel in that plane by flying a less direct route. We have to have much wider spacing of airplanes in a congested airspace. We are polluting the skies with more fuel used. We are costing the airplanes and the passengers the extra fuel. We are also taking extra time for the passengers to get to where they are headed because of less direct routes.

All of that can change with a new system of global positing, GPS. Everybody understands what GPS is. You have GPS in your automobile in many cases. You type in an address and it shows you where your car is and where the address is and it takes you right to the address. If your child has a cell phone, in most cases they have access to GPS in their cell phone. In many cases, your child with a cell phone has

the opportunity, with some of the providers, to link with their best friends—their five best friends, for example—and each of them with their cell phone can have GPS locators, so they can access their five friends and know exactly where each of the five is. We can do that with children and cell phones. We cannot do it today with commercial airplanes. We cannot know exactly where that airliner is with GPS technology. That is because we have not yet modernized.

That is what this is all about—modernization of the air traffic control system. When we do—and we will—we will be able to fly much more direct routes, have a greater margin of safety, save fuel, save the environment. We will do all of these things. Other parts of the world are doing it, and so must we. That is why Senator ROCKEFELLER and I have brought a bill to the floor that moves directly and aggressively toward what is called modernization of the air traffic control systems. It sounds complicated. It is less complicated than one would think. It needs the FAA to build the facilities on the ground, and it needs the airplanes to have the equipage in the jet or the airplane itself. When we do that and have the procedures and the developed process, we will have modernized the air traffic control system. That is what the legislation is about.

The legislation is also about building infrastructure across the country. If you are going to fly, you have to have someplace to land and someplace for passengers to embark and disembark. It means runways and terminals. It means a wide range of things. This also includes the Essential Air Service Program, which provides essential air service through contracts to smaller communities. As I indicated earlier, it addresses the issue of safety.

Let me describe safety for a moment, as I have done a couple of times on the floor because I think it is very important.

One-half of the flights in this country are by regional airlines. The passengers do not necessarily know it is a regional airline. They get on, in most cases, a smaller airplane, and it says United, US Airways, Delta, Continental, but it is not that company at all. That is just the brand on the airplane, and it is a regional company, in most cases, that is flying for the larger carrier. In some cases, the larger carrier owns the regional, but in most cases, it is a regional flying under contract to one of the major carriers.

What we have discovered in several hearings, in the aftermath of the Colgan accident, is some very difficult circumstances in terms of mistakes that were made and things that we think we need to improve and correct. Some of it we do in this bill.

The pilot who was in charge of the Colgan plane that evening—flying at night, in ice, in the winter, into Buffalo, NY, from Newark Airport—that pilot, we discovered later, had failed a number of pilot exams along the way. We have learned that the CEO of this company, Colgan, indicated: Had we known about these multiple failures along the way of this pilot's credentials, we would not have hired the pilot. But they did not know because they did not have access to all of that information. This legislation provides that access shall be made available. So those hiring decisions will be better decisions.

The issue of fatigue is very important and was very evident as part of the cause, I believe, of that Colgan accident in Buffalo. There is almost never a circumstance where there was an airplane accident in this country where the accident report says definitively: This was caused by fatigue. But we know, of course, there are a number of tragedies that were caused by fatigue.

Let me point out something we learned with respect to this particular flight, and my assumption is it is not peculiar to this flight. This chart shows the Colgan Air pilots' commuting prior to a flight. On this particular flight, on that evening, when the passengers boarded that flight, the copilot, who got in the right seat of that cockpit, had flown from Seattle, WA, to Newark Airport in order to reach her duty station. She lived in Seattle and she worked out of Newark. She flew all night long, deadheaded on a FedEx plane to Memphis, changed, and flew to Newark all night long. The pilot commuted from Florida to Newark. So you have two people in the cockpit: one from Florida who commuted to Newark and one from Seattle who commuted to Newark.

What we now have heard from testimony from the National Transportation Safety Board is the pilot of that airplane had not slept in a bed the two previous nights, the copilot had not slept in a bed the previous night. Was this crash caused by fatigue? There will never be something that definitively suggests that, but if you were a passenger on an airplane and in the cockpit sat a pilot and copilot, neither of whom had slept in a bed the previous night or two nights, would you believe fatigue was the cause of perhaps a misjudgment in the cockpit? I would. I would.

The question is not, Can you end all commuting? I do not expect you can probably end all commuting. But the question is, Does some of this commuting invariably cause fatigue? I believe it does. And how do you begin to address that? The FAA Administrator has now sent to the Office of Management and Budget, I believe, his rulemaking on fatigue, so that is a step forward because we have to address that.

As shown on this chart, this quote is from a discussion by a regional pilot in the Wall Street Journal of September 12, 2008. He said:

Take a shower, brush your teeth, pretend you slept.

That is what a regional pilot says about the kind of work on regional carriers, where you have a lot of stops, small routes or short routes: ''Take a shower, brush your teeth, pretend you slept.''

Again, I think it raises the question—and a reasonable question—about how do you make this circumstance change. How do you promote greater safety in circumstances where there is so much commuting, where you have duty time that often allows for less than is necessary to sleep at night? There is the full 8 hours, to be sure. But by the time you get to a hotel somewhere during duty time, it is quite often the case you have not slept a full night.

In this case of the Colgan flight, we have now learned the copilot on that airplane not only traveled all the way across country to reach her duty station, but she is someone who made in the neighborhood of $20,000 to $23,000 a year. Does anybody believe a copilot on a commercial carrier paid $20,000 to $23,000 a year is going to be able to afford hotel rooms when they get to their duty station prior to taking a flight? I don't think so. That is not an unreasonable thing to expect to have happen.

Let me say, my discussion of this is not to tarnish regional airlines. They play a very important role in our air traffic system in the commercial aviation system—very important. My hope is, though, working with the regional carriers, these safety provisions we have included in this piece of legislation will substantially improve safety and avoid the kind of circumstances that existed on that particular Colgan flight.

I mentioned previously the families of the victims on that Colgan flight have been real champions for aviation safety. They have never missed a hearing. They have shown up at all the events in Washington, DC, whether it is a hearing or other activities, to say: I am here on behalf of my son, my daughter, my brother, my mother who perished in that crash. The fact is, that diligence and that effort has made a difference and shows itself in this legislation.

We also, in this legislation, are addressing the issue of pilot hours as qualifications. I will talk about that some other time.

I think there is a lot here to commend this bill to my colleagues. It is urgent we get this passed through the Senate, get to conference, be able to reach a conference agreement with the House, and get the bill signed. We will, by that, I think improve the infrastructure in this country, substantially increase jobs—we are estimating 150,000 new jobs as a result of it—and dramatically change the air traffic control system from an archaic system to a modern system. All that is good for the country.

There is way too much that is needed to be done in this country to improve things, especially in areas of infrastructure and modernization, that is

left undone. Let's at least get this piece for commercial aviation and for all aviation completed.

I have mentioned almost exclusively the issue of commercial aviation. I do not want to leave the floor again without saying there is another component to aviation in our country; that is, general aviation. Many of us fly on small planes a lot. I learned how to fly a small plane years and years ago. General aviation plays a very important role in the area of aviation in our lives.

In States such as Alaska, the Presiding Officer's State, or perhaps West Virginia or North Dakota, in States such as that, the ability to get on a Cessna 210 or a King Air, if we are lucky, or perhaps even a Mooney or a 172 Cessna and go someplace and get there, sometimes in circumstances where there are not a lot of roads, as would be the case in Alaska, and other circumstances where you have wide distances to travel on a Friday, Saturday or Sunday—general aviation is so important and they do so much good work.

In addition, very few people talk—it is true of general aviation and also commercial aviation—about the mercy flights, flying a heart for a donor on a mercy flight, or flying someone who needs desperate treatment to save a life. It goes on every day all across this country—corporate jets, private planes, and, yes, even with commercial airliners.

We are in the process right now of beginning to fight a flood in Fargo-Moorhead. That river will go up 20 feet in about 10 days. It is going to be 20 feet by Friday from 2 weeks ago. I recall last year when the flood occurred, then Northwest Airlines, now Delta Airlines, flew some very large planes into Fargo for relief purposes. They never asked for anything. They just said they were coming. There is a lot of work that goes on by some of the major carriers, as well as corporate and general aviation, that is very important.

Again, I thank Senator ROCKEFELLER for the work he and Senator HUTCHISON have done. I, as chairman, and Senator DEMINT, as ranking member, of the Subcommittee on Aviation are pleased to be working with them.

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

The PRESIDING OFFICER (Mrs. GILLIBRAND). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNITED STATES AND ISRAEL CONTROVERSY

Mr. SPECTER. Madam President, I have sought recognition to comment on the current controversy between the United States and Israel on the settlement issue.

Before the current controversy between the United States and Israel escalates further, I suggest all parties cool the rhetoric, avoid public recriminations, determine exactly what happened and consider some fundamental questions.

What are the facts? It has been reported that there are 1,600 new settlements in East Jerusalem in violation of Israeli commitments. Authoritative sources insist that the announcement by a mid-level official at the Ministry of the Interior only involved planning subject to judicial review with no groundbreaking for 3 years. Another report said U.S. officials extracted a secret promise from Prime Minister Netanyahu not to allow provocative steps in East Jerusalem. Is it true that the United States accepted the 10-month moratorium on settlements with caveats that excluded East Jerusalem in line with the insistence by Israeli officials dating back to Prime Minister Golda Meir that Jerusalem was under Israeli exclusive sovereignty?

It is conceded that Prime Minister Netanyahu was blindsided by the announcement. It is further acknowledged that the Israeli Minister of the Interior is a member of the ultra-conservative Shaos party whose participation is essential to the continuation of the coalition government.

These matters need to be thought through before making public pronouncements that could significantly damage the U.S.-Israeli relationship and give aid and comfort to the enemies of the Mideast peace process.

The rock solid alliance between the United States and Israel has withstood significant disagreements for six decades. The mutual interests which bind these two countries together have always been stronger than the most substantial differences. The United States needs to respect Israeli security interests, understanding that Israel cannot lose a war and survive. The United States has many layers of defense to protect our security interests and survive.

I suggest that if we all take a few deep breaths, think through the pending questions and reflect on the importance of maintaining U.S.-Israeli solidarity, we can weather this storm.

(The further remarks of Mr. SPECTER pertaining to the introduction of S. 3120 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I thank my distinguished colleague from Connecticut for awaiting those few comments and yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 3456

Mr. LIEBERMAN. Madam President, it was a pleasure to yield that time to my friend from Pennsylvania, which he used very well.

I rise to continue a discussion of amendment No. 3456, which has been offered by Senators COLLINS, BYRD, FEINSTEIN, VOINOVICH, ENSIGN, and myself, which would reauthorize the Opportunity Scholarship Program for students, needy and deserving students here in the District of Columbia, sometimes referred to as the DC voucher program.

This amendment would, as I say, reauthorize this program which otherwise would either atrophy over time—there are still 1,300 students in it, but now, for the last 2 years, it has not been reauthorized. President Obama in his budget says this probably will be the last year that Federal funding would be in it. The nonprofit corporation that has administered this program has said—under the circumstances the Congress by our inaction and in some sense interruption have created—they cannot continue to administer the program. No one else has come forward to do that.

This amendment says, effectively, it would be a tragedy, a human tragedy, 1,300 human tragedies—that 1,300 economically disadvantaged students in the District of Columbia who have been given a lifeline out of failing public schools to try to better educate themselves so they can live a life of self-sufficiency and satisfaction—that all that hope would be ended, all that opportunity would be ended.

This amendment would turn all that around and say the Senate believes this program is at least worth continuing as an experiment. But more than that, it has worked, by independent evaluation. Why terminate it? There is no good reason to terminate it. Would the Chancellor of the District of Columbia School System, Michelle Rhee, obviously an advocate for the public schools here—as I am, as the other Senators, COLLINS, BYRD, FEINSTEIN, VOINOVICH, and ENSIGN are—would the Chancellor of a public school system here support this program if it were not a good program? Of course not. Would she support it if she thought it was a threat to the public schools? Of course not. That is her first and major commitment. She supports a 5-year extension of this program that this amendment would authorize because, as she said poignantly to our Government Affairs Committee, which has jurisdiction over matters related to the District of Columbia—she said until she can say to a parent of a child at a school that has been designated under Federal law as a failing school, a school that has failed to give those children an equal educational opportunity—until, Chancellor Rhee has told us, she can say to the parent, "that public school that your child is in here in the District of Columbia, our Nation's Capital, is prepared to give your child an equal and good educational opportunity," then she cannot say terminate the DC Opportunity Scholarship Program which gives low-income, economically disadvantaged children a lifeline, a passport, a scholarship they can use at a private or faith-based school of their choice.

This program was started after difficult and intricate negotiations in

2004. It was started with a basic premise that is deeply and wonderfully American, which is: Hey, this is the country whose Declaration of Independence said that the government was being created in the first place, in 1776, to secure the rights to life, liberty, and the pursuit of happiness; that everybody has an endowment from our Creator—not by the government; the government is there to secure those rights—the endowment came from God, from our Creator. One of the fundamental ways in which we have attempted over our history to secure those rights is through the public school system, through our school system.

Generations and generations of Americans, new Americans, immigrant Americans, have come here and the school system has given them an opportunity for education and they have gone on to not only make a success of themselves but contribute enormously to our country.

The sad fact is that a lot of our public schools today are failing particularly our economically disadvantaged students. There is a terrible gap based on income and race and ethnicity, an achievement gap, in our public school system. No Child Left Behind and various Federal programs are trying hard to close that, but it has not been closed yet.

That is why a lot of us got together in 2004, the administration and both parties, and tried to negotiate and ultimately did negotiate a compromise which was based not on supporting any particular educational institution but founded on that goal that was in the Declaration of Independence, that is characteristically and fundamentally American, the individual and, in this case, the individual child. How many individual children, in this case in the Nation's Capital, can we give a better education so they can develop their God-given talent to the highest level possible, which they cannot do if they are not getting a good education?

So in this compromise that was enacted in 2004, we basically created new income streams. Some people say: Oh, the DC Opportunity Scholarship Program looks like it is working. It is a good idea to help kids get a scholarship to a private or faith-based school, but I am against it because it takes money from public schools. Wrong. That was the whole premise.

In fact, to even it out, when we adopted this program we gave an equal amount of additional money to the DC Public Schools as went into the DC Opportunity Scholarship Program, then a new stream of money into charter schools in the District of Columbia. That was the agreement that was made. It was a good agreement. Those of us who support the DC Opportunity Scholarship Program are not at all unhappy to give an equal amount of extra money to the public schools and to the charter school movement in the District.

I guess the program is controversial because some people do not want to experiment with something other than the public school system on how to educate the individual. OK, I respect that. I understand that.

Teachers unions are at the forefront of the opposition. They are against this bill. I understand that. But I disagree, respectfully. This is not an assault on teachers or the public schools. As Chancellor Rhee has said: This is a temporary lifeline for students who are in schools designated under Federal law as inadequate to educate them, to give them an opportunity to step up and go to a private or a faith-based school where they can do better.

I do not know why anyone would want to terminate this program. It is a small program. As I will make clear in a few moments, it has been positively evaluated. Particularly, I repeat, why would we want to intervene when the leader of the DC Public Schools says this Opportunity Scholarship Program should be continued because it is good for kids in the District of Columbia. She cannot really say to parents: I can give a good, first-class education to all of your children.

Parents like this program a lot. Kids like it. We heard moving testimony from children in the system. Polling in the District of Columbia shows very strong support for it, particularly and not surprisingly in economically disadvantaged areas.

Look, let's talk from the facts. Most of us, I will say ''us,'' including me, have the money to send our kids to either private or faith-based schools because we think they can get a better education there or the kind of education we want them to get, particularly if it is in a faith-based school.

These are parents who do not have that choice because they do not have the money. Imagine the frustration that we would feel if our children were trapped in a public school where we knew they were not getting a good education that would compromise the rest of their life and yet we did not have the money to get them a better education.

That is all this program deems, the Opportunity Scholarship Program. It is a scholarship to give economically disadvantaged kids an opportunity to rise to the limits of their ability. A vote against this amendment, I really believe, is a vote to take away opportunity for 1,300 economically disadvantaged students who are now in the program and hundreds of others who would join if and when this program is extended.

There have been hundreds of students involved. At its peak there were 1,930 students enrolled for the 2007–2008 school year. Because no new students could enroll, because the program was not reauthorized to that extent by Congress, enrollment declined to 1,721 for the 2008–2009 school year. It is now at 1,319.

Here is a terrible thing that happened: Last year, 216 students were offered a scholarship for the year that followed, the school year that followed. Then that offer, because of opposition to this program and a decision not to allow new students into it, was revoked by the Secretary of Education of the United States.

Since its inception, the Opportunity Scholarship Program has served over 3,000 students, and more than 8,400 have applied to participate. Over 85 percent of the students in this program would be attending a school in need of improvement, corrective action, or restructuring as designated under Federal law. This is a remarkable program that really does deserve to be continued.

I note the presence of my colleague and friend and cosponsor, Senator ENSIGN. If the Senator would like to speak at this time, I will be glad to yield the floor, and then I will take it back after he has concluded.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, first of all, I appreciate all of the great work that the chairman has done on this piece of legislation. This is a bipartisan piece of legislation that we are talking about today. We are talking about the DC Opportunity Scholarship Program.

Why is it on the bill that deals with the FAA, people would ask? Well, it is on there because we have been trying to get this reauthorized for a long time. In the Senate, we have to take whatever vehicle we can get.

I appreciate the leadership of Senator LIEBERMAN and the work he has done, as well as many of my other colleagues. Unfortunately, there are forces on the other side who apparently think giving opportunity scholarships for 1,300 poor children in the District of Columbia is somehow a threat to our public education system in America.

I heard the chairman talk about Michelle Rhee. Michelle is one of the true reformers of education. She is a believer in the public education system in America, as I am. I know that Chairman LIEBERMAN is a big believer in the public education system. That is one of the reasons we want to explore and test various reform proposals to actually see if they will work, or see if they do not work.

Well, so far, there have been 1,300 students participating in the DC Opportunity Scholarship Program. Based on the satisfaction of their parents, it is serving the students well. Remember, when they get a scholarship, they do not have to go. Let me repeat that. If they are in a public school system, they are zoned for that public school system. They cannot afford to go anyplace else; they do not have any choice. But if they get one of these DC scholarships, nobody forces them to use it. Nobody forces them to go to one of those other private schools.

Why do the parents and the kids like it? They like it because they are escaping from a bad school.

As Senator LIEBERMAN discussed, 85 percent of the kids who participate in

this program are from failing schools; failing based on objective criteria. The average household income is about $25,000 a year for the families of these kids who are participating in the DC Opportunity Scholarship Program. These are kids are from low-income families. They cannot afford to take their kids out of these failing schools by themselves. That is why we wanted to experiment to see whether the DC Opportunity Scholarship Program worked. Did it help the kids' educational system? Education in America has been called the new civil right. Well, I think that is exactly right. I think we need to look at education as a way to lift people out of poverty. But just because kids are getting an education at school, it does not give them the opportunities that other kids are getting. It is not a question of money. The DC Public School System spends $15,000 per year per student. It is one of the highest, if not the highest, in the country. It is about $4,600 a year more than the national average. It is almost three times more than what Nevada spends per student.

But I can guarantee you, I do not know of anybody in Nevada who would rather have their kids going here in Washington, DC, Public Schools than going to public school in Nevada. It is because of the poor performance of Washington, DC Public Schools.

Now, Michelle Rhee, to her credit, is doing a good job improving the public schools. But they have so far to go. The Mayor of Washington, DC, supports the DC Opportunity Scholarship Program. The parents of these children—there were over 7,000 people who just signed a petition in Washington, DC, to continue this program. I have met many of these students. When you talk to them, and you look in their faces and you say: Do you want this program to continue? Is this something that has helped you in your life? The students who have participated in the DC Opportunity Scholarship Program say it is one of the best things that ever happened to them in their life. DC Opportunity Scholarship Program allowed the students to get out of a school that had high crime rates, that had low performance, and where sometimes the teachers did not have great attitudes. The students went to a caring, loving atmosphere where they had a chance to succeed.

That is really what this whole thing is about. Recent data shows that about 26 percent of eighth graders in the DC Public Schools score below basic in math. Students of DC Public Schools rank near the bottom in the Nation in both SAT and ACT scores. About half of the DC students do not even graduate from high school.

On the other side of the coin, when you look at what has happened with the DC Opportunity Scholarship kids, a rigorous study by the Institute of Education Services found that students in the program experienced statistically significant improvements in reading that were equal to more than 3 months of additional schooling.

The study also found that students in five out of ten subgroups improved in reading, and parents experienced increased satisfaction with the quality and the safety of their children's schools.

Dr. Wolf, who was the principal investigator for the Department of Education study, has stated:

> . . . the D.C. scholarship program has proven to be the most effective education policy evaluated by the federal government's official education research arm so far.

You know, Rome was not built in a day. I believe we owe it to DC's children to continue this program and to continue the research on these promising gains.

Do we know that the DC Opportunity Scholarship Program will work in the future? No. But it is promising research so far. So we should not discontinue the DC Opportunity Scholarship Program. We should fund it, make sure that it continues and continue to study it.

Unfortunately, what has happened is that in the public school system, there are forces who believe that giving parents choice is somehow a threat to our public school system. To me, it is just about the kids and their education. That is who should come first in our education system, the children. Let's put their education and future first. Let's not have special interests decide who is going to control education.

That is what the DC Opportunity Scholarship Program is all about. I see Senator COLLINS is on the Senate floor. I appreciate her work, Senator LIEBERMAN, Senator VOINOVICH, and many others in the Senate who have worked in a bipartisan fashion. Let's not let this bill go down.

Secretary Duncan is a reformer. There is no question he has brought some reform proposals that I think deserve looking at.

He has talked a lot about putting our kids first in our education system. This is one way we can do it. We need to support Michelle Rhee in her efforts to improve the public school system, but we also need to keep this valuable program, the DC Opportunity Scholarship Program, intact for those 1,300 kids and their families who are enjoying its benefits.

I yield the floor and thank the chairman for allowing me to speak.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank Senator ENSIGN for his cosponsorship, for his convincing and informed argument for this amendment. I couldn't agree more. There is such an irony here. Secretary Duncan of Education is a reformer. The President supports school reforms. Michelle Rhee is trying very hard and valiantly and effectively to reform the DC Public Schools. Why would Secretary Duncan and members of the administration and some in this body and our colleagues in the other body oppose this program, an opportunity scholarship program which Chancellor Rhee supports because it is consistent with her attempt and the attempt of Secretary Duncan to reform our public schools? The only answer I can think of is that certain interest groups, including particularly teachers unions, oppose this measure.

For me, that is not an acceptable reason to terminate the hopes of 1,300 children in a program in the Nation's Capital.

I note, with pleasure, the presence of our colleague from Maine, Senator COLLINS.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, let me begin by saluting the leadership of my colleague, the chairman of the Homeland Security Committee, Senator LIEBERMAN. He has been so persistent in ensuring a debate on this program. His leadership on this issue, as on every other issue I work with him on, has been exemplary.

I am pleased to join Senators LIEBERMAN, ENSIGN, VOINOVICH, FEINSTEIN, and BYRD in offering this amendment to reauthorize the DC Opportunity Scholarship Program.

More than 5 years ago, leaders in the District of Columbia became frustrated with institutionalized failure within the public school system, and designed a ''three-sector'' strategy that provided new funding for public schools, public charter schools and new educational options for needy children. Working with the District, Congress then implemented the DC School Choice Incentive Act in 2004, giving birth to the DC Opportunity Scholarship Program. The program is the first to provide federally funded scholarships to students, and has enabled low-income students from the District of Columbia public school system to attend the independent-private or parochial school of their choice. For many of these students, this was their first opportunity to access a high quality education.

The program has clearly filled a need, a fact that is illustrated by the long lines of parents waiting to enroll their children in the program. Since its inception, more than 7,000 students have applied for scholarships. With demand so high, it is dismaying that critics would seek to dismantle the program.

The inspiring stories we have heard from parents and students participating in the program, parallels what we have learned from recent independent studies conducted by the University of Arkansas and the Institute of Education Sciences at the U.S. Department of Education.

In December 2009, University of Arkansas researchers released the findings of a new evaluation entitled ''Family Reflections on the District of Columbia Opportunity Scholarship Program.'' The project sought to ''capture the contextual nuances of what is

happening in the lives of the families experiencing the Program'' by conducting a qualitative assessment.

The study showed that parents were overwhelmingly satisfied with their children's experience in the program. Common reasons for this higher level of satisfaction included, appreciation for the ability to choose their child's school, the success their children are having in new school environments, and the support provided by the Washington Scholarship Fund.

In March 2009, the Department of Education released its evaluation of the program's impact after three years, which showed that overall; students offered scholarships had higher reading achievement than those not offered scholarships, the equivalent of an additional three months of learning.

As I noted previously, this amendment has bipartisan support and was crafted using input from Members on both sides of the aisle. As chair and ranking member of the Financial Services General Government Appropriations Subcommittee, Senator DURBIN and I held a hearing last September on funding for schools in the District. We heard from stakeholders representing DC Public Schools, DC Public Charter Schools, and the DC Opportunity Scholarship Program. This amendment is the byproduct of their input as well as that of my distinguished colleague, Senator DURBIN.

In addition to providing scholarships for low-income students and their family's real choice in education, the amendment authorizes $20 million for DC public schools and $20 million for pubic charter schools—so that all students in the District have access to a high quality education.

Further, our amendment includes provisions supported by Senator DURBIN. Among other things, it provides that all participating OSP schools maintain a valid certificate of occupancy issued by the DC government, that core subject matter teachers in OSP schools must hold at least a bachelor's degree, and that all OSP schools must be accredited.

We all must place what's best for students first. If Congress were to discontinue funding for DC opportunity scholarships, it is estimated that 86 percent of the students would be reassigned to schools that did not meet ''adequate yearly progress'' goals in reading and math for the 2006–07 school year. We simply cannot afford to allow that to happen. I urge my colleagues to support this amendment.

We are talking about averting a true tragedy by adopting the Lieberman amendment, which I am pleased to cosponsor. I do not use that word ''tragedy'' often nor lightly. That is what we are talking about. We are talking about the futures of young people in the District of Columbia. That is what is at stake in this debate. It is that serious.

It is important to go back and look at the history of the DC scholarship program. More than 5 years ago, the leaders of the District of Columbia became so frustrated with the institutionalized failure within the District's public school system that they came to Congress and worked with Members of Congress on both sides of the aisle to design a new three-sector strategy that provided new funding for public schools in the District, for public charter schools, and for scholarships for low-income children who might choose to attend a private school.

Working with the District's leaders, Congress then passed the DC School Choice Incentive Act of 2004, giving birth to the DC Opportunity Scholarship Program. For many of these students, this was their first opportunity to access a high-quality education, an education that would give them the opportunity to excel, the opportunity for a bright future. That is what the debate is about. Indeed, we have seen incredible enthusiasm for this program, and the three-pronged approach has helped DC's public schools to get on the path of improvement and DC's charter schools which are also providing some quality educational opportunities.

But a young man who testified before our Homeland Security and Governmental Affairs Committee put it very well when he was asked by a Senator who opposed the DC scholarship program why we should not, instead, focus solely on the DC Public Schools.

He said: Mr. Senator, the DC schools didn't get bad overnight, and they are not going to get better overnight.

Clearly, what he was saying was, why should he lose the opportunity for a good education and a bright future while he is waiting for DC Public Schools to get better.

I join in the admiration for Michelle Rhee, who is working very hard with the mayor and with the city council to improve the DC Public Schools. We are making progress. We rejoice in that progress. We support that progress. That is why we are continuing to provide Federal funding for DC's public schools. But as this young man told us, the DC schools did not get bad overnight, and they are not going to get better overnight, no matter what extraordinary leadership they are receiving.

The DC scholarship program has clearly filled a need, a fact that is illustrated by the long lines of parents waiting to enroll their children in the program. Since its inception, more than 7,000 students have applied for scholarships. With demand so high, with the stakes so great, it is dismaying, to say the least—I think it is tragic—that critics are seeking to dismantle this program.

The inspiring stories we have heard from parents and students participating in the DC scholarship program parallel what we have learned from recent independent, rigorous studies conducted by the University of Arkansas and the Institute of Education Sciences at the U.S. Department of Education. Senator LIEBERMAN and I heard firsthand from the researcher who conducted that study. He told us parents were overwhelmingly satisfied with their children's experience in this program, and they also told us the students offered scholarships had higher reading achievement than those not offered scholarships, the equivalent of an additional 3 months of learning. Given that these students had not been enrolled in these better schools for very long, that is impressive progress. I am certain as their education continues, if it is allowed to continue, we will see even more substantial educational gains.

It is so disappointing—it is discouraging and dismaying—that we are having to fight for the continuation of a program that each and every day is making a difference in the lives of these children.

I am going to challenge my colleagues, before you decide how you are going to vote on this program, if you are inclined to vote against our amendment, first talk to just one student who is enrolled in this program and their parents. If you then can come to the floor and, in good conscience, vote against the Lieberman-Collins amendment—well, suffice it to say, I don't think our colleagues can, in good conscience, vote against our amendment, if they have talked to any of the students and their families who are benefiting from this program.

It would be truly a tragedy for the children of the District of Columbia if this program is not continued.

Let me end my comments with one startling fact. If Congress were to discontinue funding for DC opportunity scholarships, it is estimated 86 percent of the students would be returned to schools that are failing schools, schools that did not meet the adequate yearly progress standard for reading and math for the 2006–2007 school year. We simply cannot, in good conscience, allow that to happen.

I hope my colleagues will take a close look at the facts revealed by our hearing, the rigorous studies that have been done to compare educational progress, the recommendations of the chancellor of the DC Public Schools and, most of all, I hope they will listen to the students and to the families whose lives have been changed for the better due to this program.

I yield the floor.

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

Mr. LIEBERMAN. I thank my colleague, Senator COLLINS, for coming to the floor, for being a cosponsor of this amendment. And for the passionate and reasoned way in which she spoke.

Two things come to mind in listening to her remarks. One is, we are very often dealing with big national or international matters on the floor of the Senate—health care reform, jobs act, whatever. They all involve people,

of course. But here is one which is local, and we can actually quantify the people. We have 1,319 children who are in private or faith-based schools because of this DC Opportunity Scholarship Program, getting, by their own telling and that of their parents, so much better an education, feeling better about themselves, being on the road of opportunity.

If we don't authorize this, although the administration has said it is committed to at least following these students through high school, there is not enough money there to do that. The President, in the budget, said this is probably the last year he will fund it. There is not enough money to carry these students through high school.

The second point is, with all the uncertainty in the program, the current administrator of it, a nonprofit corporation, has said they don't want to do this anymore. So far, no one else has been found to do it.

So this definitely closes the door to opportunity for hundreds of other students in the District and their parents to give them a better education, while Chancellor Rhee, over the next 5 years, is trying to make every school in the District of Columbia a good school.

But, secondly, it really focuses us on the possibility that these 1,319 children will be forced to go back to the public schools in their neighborhoods, and 86 percent of those schools, as Senator COLLINS has said, are designated under Federal law as inadequate. None of us would let our kids go there, and we would pay their way out. But these parents who benefit from this program cannot.

So Senator COLLINS has really spoken of this as a tragedy, a human tragedy—she is right—that you could look into the face of each of these 1,319 kids and say: Sorry, you can't go on in this school you all are so happy to be going to at this point.

The second point is this, and I say this respectfully: It has been very rare, when I have been involved in a debate in the Senate on a matter, that I have not felt there were some respectable, good arguments on the other side. I did not agree with them. On balance, they did not convince me my position was wrong. But I must say that on this one I cannot think of a single good reason to be opposed to this amendment: 5 more years of an experimental program, $20 million to the DC Opportunity Scholarship Program out of, by my recollection, $13 billion of Federal taxpayer money that goes to title I schools, and over $25 billion that goes from the Federal Government to public schools around America in the No Child Left Behind Program—a total of $25 billion or $26 billion.

This is $20 million for these DC Opportunity Scholarships, alongside $20 million more to the DC Public Schools that they will not otherwise get, and $20 million more for the charter schools. In fact, if this program is allowed to die and those 1,319 students are forced back into the public schools in their neighborhoods, that adds, by the estimate of one independent authority I have seen, at least $14 million more to the expense of the DC Public School System to take them back.

So I welcome people who oppose this amendment to come to the floor to debate it, but honestly, listening to Senator COLLINS, I cannot think of a good reason to be against this amendment. I thank the Senator very much for coming over, for her cosponsorship, and for all the work we have been able to do together.

Again, I say, why did this come before the Homeland Security and Governmental Affairs Committee? Because historically—the Presiding Officer, I am now proud to say, is a new member of the committee—the Governmental Affairs Committee has been given jurisdiction over matters regarding the District of Columbia. It is in that capacity that we have done oversight of this program.

I note the presence of another cosponsor—and I will give her a moment to get ready—Senator FEINSTEIN of California, whom I will yield to whenever she wants to speak.

One of the arguments against this—actually, since no one is on the floor opposing this, I am going to use a memo sent out this afternoon by staff to Senators opposing the amendment from the Democratic leadership office, I believe. I will just pick out a few of these.

The first problem cited: This program was passed in 2003 as a 5-year pilot program. It has now been extended twice through appropriations bills to minimize the disruption to students already in the program, and a plan for winding it down is in place. But that is the point.

So they say: Reauthorization is not needed to keep students in the schools they are in. That, according to the DC authorities on this, is not true. There is not enough money in it to keep them in there. The President said, in his budget this year, this would probably be the last time he would recommend appropriating to this program. The promise was to keep these students in the Opportunity Scholarship Program right through graduation from high school. There is not enough money there.

But more to the point, there is every reason to do it, based on the independent evaluation of the program, based on Michelle Rhee, chancellor of the DC Public Schools, who is supporting the 5-year reauthorization because she feels it is necessary.

Incidentally, this reauthorization is also supported by Mayor Fenty. He supports the tripartite appropriation: public schools, charter schools, and the Opportunity Scholarship Program. And it is supported in a letter from a majority of the members of the city council of the District.

I want to quote—I will come back to it again—Michelle Rhee. This is why it is not adequate to say this ought to be just appropriated every year and keep these students in the program dangling every year, making it harder to find an independent administrator of the program, why reauthorization is needed. But listen to this. This is Michelle Rhee in testimony before the Financial Services and General Government Subcommittee on September 16 of last year. She says:

> [O]n a regular basis, I have parents from Wards 7 and 8 (which are our highest poverty wards, which are also the home of our lowest performing schools) come to me and they've done everything a parent should do and they say, ''I've looked at all the data, I know my neighborhood school and the schools surrounding are not performing at the level that I want them to. So I participated in the out-of-boundary process; I went through the lottery and I didn't get a slot at one of the schools I wanted.'' So they look at me and say, ''Now what? What are you going to do?''

Michelle Rhee answered in her testimony:

> And I cannot look at those parents in the eye right now at this point and offer every single one of them a spot in a school that I think is a high-performing school.

Here is a gutsy comment from this chancellor who is really devoted to the improvement of the public schools. Chancellor Rhee says:

> And until I think we are able to do that, which I think is on that five-year horizon, then I believe that we do need to have choice for our families and I think they do have to have the ability to participate: either to move into a charter school or to use the opportunity scholarships.

End of quote from the chancellor of the DC Public School System. I have the greatest respect for her. It took a lot of guts to say that. But she said ''5-year horizon,'' and that is what this reauthorization does. It gives these kids—these parents who know their children are not getting a good education in the public school they are in—who have not been able to go to one of the out-of-boundary, out-of-their-neighborhood schools because the schools are packed, have not made it into a charter school because I gather there are thousands waiting who cannot get into the existing charter schools—let's give them an opportunity to get one of these opportunity scholarships and have a chance for a better education and a better life.

Mr. President, I am going to stop now. I am very grateful for the cosponsorship by the distinguished Senator from California, a former mayor, of course, who is intimately knowledgeable on public education, who is committed to public education and yet really concerned about every child. That is what this program is about.

I will yield the floor at this moment.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank you for the recognition.

I thank the distinguished Senator and chairman of the committee for his leadership on this issue. Also, the Senator from Maine is in the Chamber. I thank her for her support.

This has not been an easy program. It has always surprised me that people oppose anything that might give an individual another opportunity. I believe very deeply that some children do well in one kind of setting, other children do well in another kind of setting, and the real goal of education ought to be to provide a number of different choices for youngsters so you can see where they learn best and then enable them to be in that situation. I also have always had a hard time understanding why only the well-to-do can afford a private school, why youngsters have to go to schools that are among the most troubled and, candidly, the worst anywhere because that is the way it is and that is what public education insists it be. So I have supported this program for some 6 years now, since its inception under the leadership of District of Columbia Mayor Anthony Williams, and I strongly believe it should be continued. It is right.

It started out as a 5-year pilot program to determine whether youngsters, low-income students, do, in fact, learn more and learn better in some of DC's private and parochial schools. The program's most recent evaluation results show this program is, in fact, valid and students are, in fact, improving. So I say, why not reauthorize it? What is everybody scared of? Why not reauthorize it? The scholarships of up to $7,500 that are offered through the DC Opportunity Scholarship Program help children make their education in a private or parochial school possible.

Currently, we know this: There are 1,319 children who attend 45 private and parochial schools. They all come from families where the average income is $25,000, and 85 percent of these students would be in DC's worst performing public schools if it were not for this program.

This amendment would extend the life of this worthy program for 5 more years and allow both current and new students the opportunity to participate. What are we afraid of? It is supported by DC Mayor Adrian Fenty, as the chairman said; DC School Chancellor Michelle Rhee—one very gutsy young superintendent; a majority of the District's council; and by parents in the District.

What are we afraid of?

Preliminary evaluations by the U.S. Department of Education's Institute of Education Sciences have shown academic gains and student improvement. When these students entered the program 6 years ago, they were performing in the bottom third on reading and math tests in the District's public schools. Last year's more comprehensive evaluation shows that reading test scores of students receiving a scholarship were higher by the equivalent of 3 months of additional schooling. It showed that they increased to the 35th percentile on the SAT–9 national standardized test from the 33rd percentile where they were before entering the program. So progress has been made. Specifically, pilot program students scored 4.5 points higher in reading on the SAT–9, with a total score of 635.4 when compared to the District's public school students' score of 630.9. These academic gains are despite the many challenges these students face outside the classroom, coming from families where the average income is $25,000.

I look forward to learning more in the months ahead of how students are performing in the program and the impact it has had on them. But in the meantime, there are these results. They may not be major, but what they are showing is that youngsters are learning to read better in this new setting than they were in the public school setting. That, indeed, is something.

I would like to share three examples with you of how the program has helped change the lives of the District's youngsters and how it has shown to give them a chance to reach their highest potential.

Let me give you the first one. OK. Here we are. This is a picture of Shirley-Ann Tomdio, a ninth grade student at Georgetown Visitation High School. I have someone very close to me at Georgetown Visitation. This is a tough academic school, so this youngster has gone from one of the worst schools to a very strong academic school. The scholarship has allowed her to attend this school for the past 5 years. She is now a ninth grade student at Georgetown Visitation School, and she wants to go to college and become a surgeon. She was the eighth grade valedictorian at Sacred Heart Middle School which is located in the District's neighborhood of Columbia Heights.

Shirley-Ann said at her eighth grade graduation speech last year:

> The DC OSP [Opportunity Scholarship Program] is important to me because without it I wouldn't be able to receive the best education possible. It should continue so that my brother, sister, and other students get the same chance. Every child should get the chance to go to a good school.

Who can disagree with that? That is her statement. She is one of the lucky ones. She will go on, and she will do well.

The second student is Carlos Battle. He is a twelfth grade student at Georgetown Day School. He has attended a private school for the past 6 years, since the program started. He is a well-rounded student, participating in school plays. He enjoys classes in classical and modern dance. He plays on the basketball team. And he maintains a solid grade point average of 3.1. He wants to go to college and has already been accepted to Northeastern University with a possible full scholarship, and Loyola University, among other colleges.

He comes from a family with a single mother and has a younger brother named Calvin who is currently an eighth grader at St. Francis Xavier Academy, also with a scholarship from the program.

Carlos said this about his experience in the program:

> The scholarships I have received through the Washington Scholarship Fund have afforded me countless opportunities, but most important, I have been given the chance to better myself. Now, instead of wanting to be someone who is well-known on the streets, I'd rather be someone who is well-known for his education, communication, and advocacy skills. I now no longer have to worry about fights breaking out in my classroom, or being threatened on a constant basis.
>
> With this security, I'm able to focus harder and become more active in my school's community. Even better, I can look forward to the future. If I keep on this same track, I am almost guaranteed a better future for my family and for myself.

Why should we be afraid of this program?

Let me show you a third youngster, Sanya Arias. This is someone who is now attending St. John's University in New York. She graduated last year from Archbishop Carroll High School with a 3.95 grade point average and is now in her first year at St. John's University in New York with a full scholarship, and she loves it.

The DC opportunity scholarship helped Sanya attend Archbishop Carroll High where she was vice president of her class, captain of the soccer team, on the lacrosse team, and president of the International Club.

In addition to her many extracurricular activities, Sanya took all honors and advanced placement courses. She said this about her experience in the program after just graduating from Archbishop Carroll High School:

> It just shows the difference from 7th and 8th grade to where I am now, where my friends strive to succeed and they influence me to want to succeed along with them. So, I'm really grateful for this opportunity.

Why don't the words of students such as Sanya, Carlos, and Shirley-Ann affect us? Why don't they enable us to see that choice in education is not something that is threatening?

I serve on the Appropriations Committee. I was one of the deciding votes in that committee when this came up. We put a lot of amount of money, additionally, into the District for public education to be able to sustain a simple choice opportunity program.

This program goes to the District's neediest students from the District's most failing schools. I have just shown my colleagues three who have succeeded. Is that not worth it? I do not understand why we are so afraid to give needy youngsters the opportunity of choice in education, to allow someone who cannot do well in a certain setting to have a different setting in which they may well be able to do very well.

I say to these three youngsters: All the more power to you. I am very proud. We should listen to students such as Sanya, Carlos, and Shirley-Ann and continue to provide this program to the District's neediest children. We need different models for different children, and I think this program is showing that.

I don't know, there is a lot of lobbying against the program. The teachers union does not like the program. I don't understand why. I don't understand what is to fear. I don't understand why, if you provide some funding for poor children to go to a special environment to learn and they learn and this youngster now is in a university because of it—I think that is what we are all about. I strongly support this program.

I thank Senator LIEBERMAN for his support and advocacy for it and his leadership in bringing this to the floor. I hope we have the votes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, briefly, I thank my colleague and dear friend from California for a wonderful statement. First, I say officially as an Independent that the Senator from California has begun demonstrating her independence of mind, spirit, and heart.

Secondly, I cannot tell the Senator how important it was that she did what she did with those three students because this is personal. This matters to individual students. It is hard to imagine the talents these three have shown and have developed would have been developed in the same way, unfortunately, at the school they were consigned to by their neighborhood.

Years ago, I learned an expression from some wise person—a hundred years ago—that if you save one life, it is as if you saved the whole world because every individual has all the potential of the world within them. That probably was talking more about physically saving a life. The truth is, in a way, that is real. By giving these kids an equal educational opportunity, we are giving them the ability to save their own lives.

I cannot thank the Senator from California enough for a wonderful statement. I appreciate it very much.

I note the presence of my friend and colleague from Ohio, Senator VOINOVICH, who has been a long-time advocate, going back to his days in Ohio, for better educational opportunity for every child.

I yield the floor and look forward to his statement at this time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I thank Senator LIEBERMAN for the leadership he has shown in this effort to make a difference in the lives of students in the District of Columbia. The Senator from California did a beautiful job of outlining the difference it has made for just a few who have been able to participate in the program thus far.

I rise, of course, to support the amendment—the amendment that will continue to give thousands of children in the District of Columbia an opportunity for a good education.

It was first authorized in 2004. The program has the potential to provide 1,700 children with scholarships of up to $7,500 each to attend the school of their choice. To qualify, students must live in the District and have a household income of no more than 185 percent of the poverty line. In the District, recipients' average family income is $24,300. These are very poor kids from families who are just making it. It is not something we have created to make available to everyone.

Unfortunately, while the program can provide 1,700 children with scholarships, it does not. Increasingly, prohibitive language in the appropriations bills and a hostile administration—and I mean hostile—has already decreased participation significantly. The program now helps just over 1,300 students.

It is baffling to me why this administration has focused so much attention opposing a successful program which has provided a high-quality education to more than 3,300 children. According to the independent evaluator of the program, ''participating DC students are reading at higher levels as a result of the Opportunity Scholarship Program.'' That is why, since 2004, approximately 9,000 families have applied for spots in the program—nearly three applications for each available scholarship.

In its fiscal year 2011 budget request, President Obama has indicated this will be the last year he expects to request funding for the program based on declining participation. Give me a break. I say to the President: It is difficult to participate in a program that is closed to new applicants. Participation levels are down because the Secretary of Education rescinded more than 200 scholarships to deserving children for the current school year, and he did so after enrollment in desirable charter and public schools had already begun.

Are we going to allow these children to return to failing, unsafe schools? High school graduation rates in the District's public schools are consistently among the worst in the Nation. According to the Washington Post—which, by the way, has editorialized in favor of this over and over—just over half the District's teenage students attend a school that is ''persistently dangerous,'' as defined by the DC Government. On an average school day, nine violent incidents are reported throughout the school system.

I would like to say that Michelle Rhee is doing her very best to bring back the school system. The DC Tuition Assistance Grant Program has been a help to many of these students. In fact, we increased attendance to college education because of the TAG Program. She is doing everything she can. Here is someone who came in here and wants to make a difference for the District. Before our Governmental Affairs Committee, she came out strongly and said this program should be continued. Mayor Fenty, the Mayor of the District of Columbia, again said this program should be continued.

What I find troubling is that some of our leaders who have exercised their right to school choice are denying that right to District parents. President Obama enrolled his children in a private school. There is no way he would allow his kids to attend the DC public schools.

Listen to this: Secretary of Education Arne Duncan moved his family to Virginia, saying:

> I didn't want to try to save the country's children and our educational system and jeopardize my own children's education.

Hear that?

> I don't want to try to save the country's children and our educational system and jeopardize my own children's education.

He has that opportunity. These people who take advantage of the program do not have that opportunity.

To quote former DC Mayor Anthony Williams:

> It is only fair to allow low-income parents the same choices that we all have, to select the best educational environment for their child.

In a letter to Senate Democrats regarding the DC program, the National Education Association wrote:

> Throughout its history, NEA has strongly opposed any diversion of limited public funds to private schools.

Unfortunately, the letter neglects the fact that the scholarships were designed according to a three-sector approach under which not a single dime has been cut from public schools. In fact, when we came in with this program—I think the Senator from Connecticut remembers—we put $14 million into charters, $14 million into the public school system, and $14 million into the scholarship program. We did not take a dime away from the District. In fact, they made out quite well on it. Add up 3 times 14, whatever that is. That is not bad coming from the Congress so we can move forward with some new ideas.

I have to tell my colleagues something. The merits of the program are of little importance to the NEA. I know this because after endorsing my 1998 Senate campaign, here is what they said. I love this:

> It is fair to say that no other Governor has done more for education and Ohio's children.

That is the NEA. They then quickly withdrew support for my 2004 campaign because I supported the DC School Choice Act. I was told—I will never forget it. I went into the interview. They all sit around. You know how it is. I answered their questions. After it was over, my opponent did the same thing.

Later on I heard back from the people who were there. They said: You did a terrific job. We appreciate what you have done, but you are not going to get it because we have been told from the boys in Washington: There is no way you are going to be allowed to endorse GEORGE VOINOVICH because he came out for the DC Scholarship Program.

Mr. President, I know the same kind of pressure is on many Members of this

Senate. What they are afraid of is, if they vote for this amendment Senator LIEBERMAN has, it will hurt them with the OEA or the NEA they have in their respective States. Senator LIEBERMAN has done the job explaining what this is. This is not a big deal. Why can't they stand and say: This is a little bitty program that is helping a bunch of kids in the District of Columbia. Give me a break. Why shouldn't I support it?

I may be a little emotional about this, but Ohioans knew this was a good program way back in 1995 when, as Governor, I supported the opportunity scholarships with the Cleveland Scholarship and Tutoring Program Office. This was opposed—of course it was—but Ohioans knew it was a good program. Over 1,900 students participated in the first year. So with hard work and dedication, we fought for the program for nearly a decade. Finally, on June 27, 2002, the U.S. Supreme Court, in a landmark decision, agreed that the program was constitutional in Zelman v. Simmons-Harris.

When I leave the Senate, I am going to write a book. One of the things I am going to talk about in that book is that landmark decision that started out in the State of Ohio in 1995 because I told the legislature the Cleveland system was going down the tubes and they needed to do something else. We finally got them to agree to put that scholarship program into Cleveland, OH. As a result of that program, over 1,900 participated in the beginning of it. Today, there are 6,000 students who are participating in that program.

The benefits, I would like to say, go beyond the academic. I think the Senator from California did a beautiful job in laying out how this helps academically, but a study by the Buckeye Institute in Ohio found students involved in the Cleveland program are gaining access to a more integrated school experience. It is very important they have this kind of experience.

This program wasn't available when I was mayor, and my children probably wouldn't have been eligible for it, but I will never forget that my son George was the only White kid in his class in a major work program in the city of Cleveland, and I have to tell you he is a different person because of the fact that he had that experience.

My daughter was one of two White kids who were in a class that was all African American. The program was terrific and they took advantage of it and they had a learning experience they would not have had if it hadn't been for this program that brought kids together for a special program.

In his closing testimony before our committee, former Mayor Anthony Williams said:

> Quite frankly, I am befuddled by the proposal to have the program die by attrition. I cannot understand why anyone could eliminate a program that has uplifted the lives, fulfilled the dreams and given hopes to thousands of low-income families.

I am also befuddled by that idea, and I urge my colleagues to stand and be counted. Support the Lieberman amendment. Let's let these kids have an opportunity that without this program they are not going to have available to them.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to thank Senator VOINOVICH for his statement. He brings several thoughts to my mind. The first is: Senator VOINOVICH, I am going to miss you when you retire at the end of this year. You are a straight shooter, you are a straight talker, and you speak from your heart. You have had a lot of practical experience—as mayor, as Governor, and as a Member of the Senate—and you bring it all to bear in what you said.

Secondly, I look forward to buying that book you are about to write. I hope it is about your career broadly, but I would be real interested in that Ohio opportunity scholarships or voucher program.

Mr. VOINOVICH. If the Senator would yield, Mr. President, I would like to say, I hope that one of the things I write about is the Lieberman amendment that passed the Senate.

Mr. LIEBERMAN. Well, let's call it the Lieberman-Voinovich amendment.

Senator VOINOVICH has spoken from his own experience in the Ohio case. As he said, sometimes people say opportunity scholarships or vouchers are constitutionally suspect or unconstitutional. Not true. The Supreme Court has ruled that the Ohio voucher program was a neutral private choice program that did not violate the establishment clause.

But I will tell you what rings in my ear is the questions that have been raised by my colleagues in support of this amendment. Senator VOINOVICH said: Why would you vote against this amendment? Why would you vote against this program? As the Senator from California, Mrs. FEINSTEIN, said: What is there to be afraid of in this program? It doesn't take money away from the public schools. The head of the DC Public School System is for the program because she thinks it will benefit the children who need it, whom she knows she can't give a quality eduction to over the 5 years of the authorization program.

This program has been tested by an independent evaluator, Dr. Patrick Wolf, principal investigator for the U.S. Department of Education study, and he concluded that:

> The DC voucher program has proven to be the most effective education innovation policy program evaluated by the Federal Government's official education research arm so far.

Of the 11 innovation programs investigated, studies showed only 3 have reported any statistically significant achievement gains, and the gains reported in the Opportunity Scholarship Program in the District of Columbia are the highest thus far.

I know Senator ROCKEFELLER wants to return to the FAA authorization bill, so I will begin to wind this up. I thank all my colleagues who came over to speak on behalf of the amendment. I regret that nobody has come to speak against it. I was looking forward to a good debate. So I have to go back to this staff memo sent out to Senators against the amendment. We have actually dealt with all the arguments made:

Public dollars should be spent on public schools that accept all students subject to uniform public standards. This program accepts the students who apply, and when there are too many, they subject them to a lottery. It is a wide-open program.

They cite the Department of Education study. They do not do it fairly. They speak wrongly: DC parents already have choices about where to send their children with the public charter school network. Yet we know those programs are oversubscribed.

The fact is, all the arguments made in this memo against the DC Opportunity Scholarship Program and keeping it alive in the hopes that the lives of a limited number of students in the DC school system—1,300; maybe with this reauthorization they will be able to add a couple hundred more in each year for the next 5 years; maybe it will be 1,000 more children—will be better and for whom the doors of opportunity will be opened in a way they are not opened now. Why would anybody oppose this? I can't think of a good reason.

The group that has been most vigorously opposed has been the teachers unions. I understand why, but their interests do not outweigh the interests of these children, economically disadvantaged, with dreams and hopes they can't realize in the schools they are in but who have those hopes elevated and realized—as those three beautiful pictures of students who have been in this program that Senator FEINSTEIN showed us.

Look, along with Chancellor Rhee, I hope for and, in fact, envision a day when the DC Opportunity Scholarship Program is not needed and it will not be needed because the DC Public School System will be providing a good education to every student who lives in the District of Columbia. But that, as Chancellor Rhee has said, is not the reality these children and their families live in today. Many schools in our Nation's Capital, as the chancellor has said, are not providing an adequate education to the students.

I repeat: I will bet there is not a Member of this Senate, if their children were consigned by neighborhood allocation systems, who would not spend the money to get their children out of those schools because their children's lives and hopes and dreams would be compromised, through no fault of their own, simply because the schools were not adequate to educate them. So this is all about helping some

of those students by supporting this amendment to reauthorize the DC Opportunity Scholarship Program 5 more years.

I hope and pray what Chancellor Rhee said is right; that in 5 years she can look every parent of every student in the DC Public School System in the eye and say: Your child is at a school where he or she can get a good education so we don't need the DC Opportunity Scholarship Program anymore. But for now, Chancellor Rhee says we need it, Mayor Fenty says we need it, former Mayor Williams—who helped to create the program—is strongly for it, and a July 2009 poll conducted in the District of Columbia says, 75 percent of District residents want and need the DC Opportunity Scholarship Program.

I don't see a reason why a majority of Members of this Senate, hopefully an overwhelming bipartisan majority, would speak against this; would frustrate the hopes of all these families, all these students, and all these leaders of education in the District of Columbia. So I am going to yield the floor with the hope that we can have a vote on this soon, and I urge my colleagues to think about the 1,319 children whose lives will be compromised, whose dreams will be stifled if this program is not reauthorized.

I thank Senator ROCKEFELLER for his patience while we continued on this amendment, and with that, I yield the floor.

Ms. MIKULSKI. Mr. President, I rise to vehemently oppose Senator LIEBERMAN's amendment to reauthorize the District of Columbia Opportunity Scholarship Program. This amendment would extend a program that impacts fewer than 5 percent of the District's public school children, and, after more than 5 years in operation, has proved to be little more than an ineffective exercise in ideologically driven education reform.

The DC Opportunity Scholarship Program has minimal impact and scant evidence of any academic benefit to the students who participate in the program. It also siphons vital Federal money away from DC families that enroll their boys and girls in public schools. I would rather see that money invested in research-driven, high-impact education initiatives that benefit public schools open to all children. Let's invest more in DC's early education programs, so that moms and dads have kids ready for kindergarten when they get there. Let's boost funding for teacher recruitment to bring the best teachers into DC's most challenged schools, which can have a tough time recruiting top talent. Let's invest in the renovation and modernization of DC's oldest school buildings, so students and families are guaranteed safe, clean, and healthy learning environments. Let's ramp up funding to improve DC's special education programs, so that parents aren't forced to send their children to costly, private special education providers.

I can understand why parents would be excited about the opportunity to send their child to a private school. I myself am the product of a Catholic education. But I cannot reconcile that potential benefit to parents with the fact that certain members of Congress believe they can act like DC's school board. I believe the District of Columbia should have a voice and a vote in Congress; that they should receive statehood. I believe they should control their own money. And, I believe that if DC would like to have a voucher program the DC School Board should vote for it and pay for it with local, not Federal, tax dollars.

I urge my colleagues to join me in opposing Senator LIEBERMAN's amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I rise to get back to something called the Federal Aviation Administration reauthorization bill. It is the bill we are on. I do not hesitate to say my daughter was one of the cofounders of a charter school, very successful, in Washington, DC, but I would also say to her, as I would to proponents of this legislation which is being discussed—vouchers—that in the Federal aviation bill, we are talking about 500 million Americans who fly every year. Not to diminish them nor my daughter's incredible work—1,300 students—that figure is going to rise very shortly to over 1 billion, and therefore what we do in the Federal aviation bill, which is the pending business, is incredibly important.

Senator BYRON DORGAN has discussed safety issues and other aspects of the legislation and he is the chairman of the Subcommittee on Aviation Operations, Safety, and Security, which I was for 10 years before I became chairman of the full committee, so I care passionately about the Federal Aviation Administration bill. I recognize it is not the most colorful, gallant legislation in the history of the world but, believe me, it affects every single American. It used to be that only 16 percent of Americans fly. Now everybody flies.

There is no way to describe how frustrated passengers are, and they have every right to be. This Federal aviation bill, incidentally, has been extended or laid over 11 different times. Eleven different times we have not been able to get to it, until this day. So I am glad we had the previous discussion and we are going to get to a number of amendments and vote on them before 6 o'clock this evening, after I announce some agreements that have been already been reached. So progress is being made, and I just wish to see it continue being made.

You have to figure that some passengers—not many cases but in some cases—have been kept waiting 9 hours on a tarmac. I can't even begin to do the body math of 9 hours, but I don't choose to because it is not pleasant. How does one eat? How does one keep sanity? Presumably, the engines are running. If they are, there is air. If they are not, there is no air. So it is extremely stuffy. You are without food, you are without water, you are without facilities and, most important, you are without any information to know where you are. This is all absolutely unacceptable.

In one little section of the bill, I want to say a couple of the things we do to fix that. This bill requires that air carriers in coordination with airports develop contingency plans to make certain they are prepared for these kinds of delays which will happen and which do happen. As more and more people fly, they will happen more frequently. It is a fact of life.

Under our bill, passengers have to have access to water, they have to have access to food, to restroom facilities, and to medical attention. They cannot remain on the tarmac for over 3 hours. I think that is stretching it. There is one little caveat which I sort of accept—at least it is in the bill—that if a pilot in his or her judgment believes that within the next 30 minutes or less they will take off, they do not have to go back to the terminal to disgorge their passengers so they can get caught up on water, facilities, medical attention, all the rest of it.

These are such commonsense protections, but they affect so many people and children. I have five grandchildren. I am trying to think what my five grandchildren would be acting like after 3 hours on a plane that has not gone anywhere. I am trying to imagine that from various points of view and none of them comes out very favorably, not one of them.

The air carriers will also have to post on their Web site which of their flights as a matter of their record tend to be delayed, tend to be canceled, tend to be on time, or diverted. That is a matter of record. It is not doing every one, but those which are likely to do that. That is on the Web site so when the passenger purchases tickets they get that, and that information has to be updated on a monthly basis and it has to be provided to customers before they purchase a ticket, Web site or no Web site. That is an advance in keeping passengers happier.

Any air carrier selling a ticket must disclose the actual air carrier. Why do I say that? Because, as Senator DORGAN has said a number of times, oft you do not know what you are flying on. There is a United up here, and a Colgan down here, and you don't know what you are flying on so you do not know who to hold accountable. We think accountability matters so you are told before you get the ticket what plane you are going to be flying on—who owns that plane, who flies that plane. So you do not, as I routinely—in West Virginia, this Senator—they are all propeller flights with one or two exceptions.

Senator DORGAN has also pointed out that 50 percent of all our aviation in

America—and we do fly half the people in the world. We are half the world's air traffic, right in North America. So we have to know whether they are a regional carrier and we have to know the information about them before people buy their ticket.

Passengers have been overlooked. They have been dismissed by the aviation system for so many years because we could get away with it and everybody was prospering. But along this time people were suffering, grievously sometimes. I think a lot of people—in fact, I think of a couple of my sisters and some people in my office, who, just when they are in an airplane, they change. They get white-knuckled. It is a cylinder, and people react in different ways to that. So we need to give passengers all the comfort, the information, and the transparency they can possibly have.

I just make that short statement. It is one aspect of our very long and comprehensive FAA authorization bill which has been waiting now for 3 years to reauthorization, and which we wish to do.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from North Dakota.

Mr. DORGAN. Madam President, as the Senator from West Virginia said, we are on the FAA reauthorization bill, that is reauthorizing the programs that deal with aviation safety and air traffic control and airport improvement funds and essential air service—all of these issues. For the last hour we have been hearing debate about a school voucher program in the District of Columbia. Why would that be the case? Because this is an authorization bill and anyone can come and offer any amendment to an authorization bill. So Senator LIEBERMAN and the cosponsors of his amendment are well within their rights to do that. It has nothing at all to do with the bill on the floor of the Senate, however.

Because we are going to vote on it, however, let me say a few words about it. I have spoken about the FAA reauthorization bill previously this afternoon and will again later, but let me talk for a moment about the issue of school vouchers. First, this is not the place to do it. This is not the place to offer the amendment. They have the right to offer the amendment but we are trying to get a bill done here.

The rest of the world is moving forward to modernize the aircraft control system and we, with the most congested and complicated air traffic control space in the world, we have extended the FAA authorization 11 straight times because we have not been able to get a bill done.

We will probably have three or four votes today and none of them have anything to do with the FAA. I hope we will clear some amendments. Senator ROCKEFELLER has been working hard to clear some amendments, but the votes we will have today have to do with earmark reform or school vouchers or any number of other subjects, discretionary budget caps, having nothing to do with the underlying bill. But if we must vote on them, let me at least take a couple of moments to respond to what we have heard for the last hour.

I know the people who came here to support the voucher amendment are enormously passionate about their support. The amendment is providing vouchers paid for by the American taxpayer for about 1,200 students in the District of Columbia, to attend private schools. In short, it provides public funding for certain students to attend private schools.

I am a big supporter of education. I believe education is our future. I believe when Thomas Jefferson said that anybody who believes a country can be both ignorant and free believes in something that never was and never can be. I understand that. I think education is the building block and foundation for America's future. In fact, it has been the success of America, that we designed education from the very start differently from many other countries. We said we are going to have a system of public education—public education, that means public schools that allow every child to go into that school and come out of that school with whatever their God-given talents allow them to become. We are not going to move people off, in the sixth grade or eighth grade, based on ability. That is not the way we are going to do it. Every child can enter those classrooms and decide to graduate with whatever their God-given talent allows them to achieve in this education system.

That is public education. I know people say to me America's schools do not work. Oh, really? Really? If you get to the Moon, anybody, would you please tell me whose bootprints are on the Moon? They are not Chinese or Russian, they are bootprints made by an American, made possible by people who were educated in America's public school system, who helped us to understand the science and math that allowed us to learn to build airplanes and learn to fly them and then build rockets and walk on the Moon and plant an American flag on the Moon. Public education has been remarkable for this country.

I walked into the oldest House Member's office the first day I came to the Congress. His name was Claude Pepper and he had two photographs behind his chair, at his desk, that I have never forgotten. Claude was in his mid- or late eighties. One photo was of Orville and Wilbur Wright making the first airplane flight, December 17, 1903, 59 seconds off the ground, the first human-powered flight. The photo was autographed ''To Congressman Claude Pepper with deep admiration, Orville Wright,'' before Orville died.

But just behind it was a second photograph of Neil Armstrong stepping gently with his boot on the surface of the Moon. I thought to myself, what is the distance measured between those two photographs? About four inches. But think of the distance in education, to learn to fly and fly to the Moon. Someone else didn't do that. We did that, with a network of public education that says to every kid: You can become whatever your God-given talents allow you to become.

Universal education in a system of public schools. Is it perfect? Certainly not. Has it worked? You bet. I am so tired of people trashing public schools. I go into a lot of classrooms and I almost never leave the classroom without thinking to myself: What an American hero teaching in that classroom. They didn't choose the profession that pays the most, for sure. But that teacher, that man or woman who is teaching those kids, what a remarkable person that is. I always leave classrooms feeling that way.

Let me talk about this program very quickly. This program, a voucher program to create public funding for a certain number of students here in the District of Columbia to attend private schools, was established as a 5-year pilot program in 2003. That is 7 years ago; a 5-year pilot program. It has now been extended twice through appropriations bills in order to minimize the disruption for students already in the program and a plan to wind it down is now in place. Reauthorization is not needed to keep current students in their schools.

In my judgment, public dollars should be spent on public schools. Yes, there are improvements that are needed in public schools. Why don't we invest in those improvements. Here in the District of Columbia they are $40 million short of what is needed. Yet we are using public dollars to support vouchers for private schools. I know it is not a lot of money but this is a program that, 7 years ago, was authorized for 5 years. It demonstrates how hard it is to shut down any program. At a time when education budgets are being slashed for public schools, we ought to be directing the money we have in the public domain for public schools.

Those who wish to attend private schools, they pay private tuition, I understand that. But our public funding ought to be devoted to strengthen our public schools.

Let me talk for a moment about a study that has been done of this voucher program. It has produced very mixed results. The Department of Education did a study that was mandated. After 3 years, no statistically significant achievement impacts were registered for students coming from the lowest performing schools. The reason that is important is that was the target of this program, low-performance schools, to allow those parents to get those kids out of those schools and give them a voucher to go to a private school. What we have discovered from the Department of Education study is for those very schools, the target schools, the lower performing schools, there is no

statistical achievement impact for students who came from those schools going into this voucher program.

Some of my colleagues said you have to give these people a choice and a chance. How about giving them a choice? The District of Columbia already has choices. There are choices available to parents on where to send their kids. There is a robust public charter school network with 60 charter schools here in the District of Columbia. Unlike voucher schools, public charter schools are open to all students, subject to the same accountability as all other schools, public schools; the same accountability standards. So the parents in DC already have some of that flexibility about which schools their children shall attend.

This program has not gone through the full committee process since 2003. The Homeland Security and Governmental Affairs Committee has yet to mark up this legislation in this Congress. More important, this amendment has nothing at all to do with the bill that is on the floor of the Senate.

I do not support this on its merits. I didn't support it in the Appropriations Committee. I do not support it now. I believe we ought to defeat it at this point, not because I do not support education but it is precisely because I support public education that we ought not be spooning off money here into a voucher program, taking public funds and moving them into private schools with, as I indicated, very mixed results as reported in a study that was done by the U.S. Department of Education.

I want for our children, for all children, to have the best education they can have. Our public school system has served this country well, but we have a lot of challenges. I will, finally, say this: One of the significant challenges of the public school system is not that teachers are poor teachers; it is not that the school is a bad school; it is, a school inherits virtually everything that exists in that town or that neighborhood and has to deal with it. That is just a fact.

So it is a challenge sometimes to, in public schools, do all that we want to do. But if we look at a couple of hundred years of history in the United States of America, it is pretty hard to conclude that we, as opposed to all other countries, we are the ones with universal education. We are the ones who supported public education. It is pretty hard to conclude that we have come up short relative to other countries.

Let me make one other point and perhaps boast just for a moment. If North Dakota were a country and not a State, a country not a State, we would rank second in the world next to Singapore in eighth grade math scores.

Does good news get reported very often? Not very often. It is just bad news that sells. This is an old saying: Bad news travels halfway around the world before good news gets its shoes on.

We ought to spend a day talking about the good news of education and then spend time as well addressing the challenges because there are some difficulties that we need to address. But I did want to say I am not going to vote for this voucher amendment. I do not think it is the right choice. I believe the proper choice is to strengthen public education, address the challenges of public education. We can do that. Our parents did it, our grandparents did it, and we can have the same kind of impact on our future as they did.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business for up to 25 minutes.

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

LEHMAN BROTHERS

Mr. KAUFMAN. Madam President, last Thursday the bankruptcy examiner for Lehman Brothers Holdings, Incorporated released a 2,200-page report about the demise of the firm, which included riveting detail on the firm's accounting practices. That report has put into sharp relief what many have expected all along: that fraud and potential criminal conduct were at the heart of this financial crisis.

Now that we are beginning to learn many of the facts, at least with respect to the activities of Lehman Brothers, the country has every right to be outraged.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that the Senate now resume consideration of the DeMint amendment No. 3454, and that at 6 p.m. the Senate proceed to vote in relation to the amendment, with the time until then divided and controlled between Senators INOUYE and DEMINT or their designees; and that upon disposition of amendment No. 3454, the Senate then proceed to vote in relation to the following amendments with 2 minutes of debate prior to each vote equally divided and controlled in the usual form; and that after the first vote in this sequence, the remaining votes be limited to 10 minutes each; and that no amendment be in order to any of the amendments in this order, prior to a vote in relation thereto; and that in the case where there is a modification, the amendment be so modified with the changes at the desk.

The amendments are Feingold amendment No. 3470, as modified; Vitter amendment No. 3458, as modified; Lieberman amendment No. 3456.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Madam President, I will not object, but I would like to add that Senator COCHRAN be protected, with Senator INOUYE, to have some of the divided time but that it not affect the 6 o'clock beginning.

The PRESIDING OFFICER. That is the understanding of the Chair.

Without objection, it is so ordered.

The amendments, as modified, are as follows:

AMENDMENT NO. 3458, AS MODIFIED

At the end of title VII, add the following:

SEC. 7___. COASTAL IMPACT ASSISTANCE PROGRAM AMENDMENTS.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended—

(1) in subsection (c), by adding at the end the following:

''(5) APPLICATION REQUIREMENTS; AVAILABILITY OF FUNDING.—On approval of a plan by the Secretary under this section, the producing State shall—

''(A) not be subject to any additional application or other requirements (other than notifying the Secretary of which projects are being carried out under the plan) to receive the payments; and

''(B) be immediately eligible to receive payments under this section.''

AMENDMENT NO. 3470, AS MODIFIED

At the end, insert the following:

TITLE _____—RESCISSION OF UNUSED TRANSPORTATION EARMARKS AND GENERAL REPORTING REQUIREMENT

SEC. _01. DEFINITION.

In this title, the term ''earmark'' means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark, as defined for purposes of Rule XXI of the Rules of the House of Representatives.

SEC. _02. RESCISSION.

Any earmark of funds provided for the Department of Transportation with more than 90 percent of the appropriated amount remaining available for obligation at the end of the 9th fiscal year following the fiscal year in which the earmark was made available is rescinded effective at the end of that 9th fiscal year, except that the Secretary of Transportation may delay any such rescission if the Secretary determines that an additional obligation of the earmark is likely to occur during the following 12-month period.

SEC. _03. AGENCY WIDE IDENTIFICATION AND REPORTS.

(a) AGENCY IDENTIFICATION.—Each Federal agency shall identify and report every project that is an earmark with an unobligated balance at the end of each fiscal year to the Director of OMB.

(b) ANNUAL REPORT.—The Director of OMB shall submit to Congress and publically post on the website of OMB an annual report that includes—

(1) a listing and accounting for earmarks with unobligated balances summarized by agency including the amount of the original earmark, amount of the unobligated balance, and the year when the funding expires, if applicable;

(2) the number of rescissions resulting from this title and the annual savings resulting from this title for the previous fiscal year; and

(3) a listing and accounting for earmarks provided for the Department of Transportation scheduled to be rescinded at the end of the current fiscal year.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Madam President, I just wanted to say to my colleagues that they need to prepare now for a 6 o'clock vote. Anyone wanting to debate will be able to do so within the constraints of the resolution that we just passed.

Senator INOUYE is on the Senate floor. We are expecting Senator COCHRAN and Senator DEMINT. So I hope if anyone else wants to have time within those timeframes that they would come to the floor now because I will object to any delay beyond 6 o'clock to start these four votes.

I yield the floor.

Mr. ROCKEFELLER. 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. INOUYE. 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. INOUYE. Madam President, the amendment offered by the Senator from South Carolina is, simply stated, a misguided attempt which would turn over the power of the purse to the executive branch. It will not save a penny toward the deficit. It will allow unelected bureaucrats who have no accountability to voters to determine how Federal tax dollars are expended instead of the Congress.

Despite the protestations of a few Senators and an active media campaign spurred on by well-financed so-called watchdogs, this amendment is a solution to a problem that does not exist.

For the sake of my colleagues who may still want to support a moratorium on earmarks, let me point out where we are at this moment. Since retaking the majority in 2006, the Democratic-led Congress has reduced funding for earmarks by more than 50 percent.

As the new chairman of the appropriations committee last year I vowed with the Chairman of the House Appropriations Committee, Representative OBEY, that we would continue on the path set by former Chairman BYRD to reduce earmarks until they represented less than 1 percent of discretionary spending.

We achieved that objective in the fiscal year 2010 Appropriations Bills, and we have agreed that we will not exceed 1 percent as long as we are chairmen of our respective committees.

If we look at the numbers in 2006, the completed appropriations Acts included $16.7 billion in what are called ''Non-project Based Earmarks.

Madam President, $8.4 billion of these were in defense and the remainder in non-defense programs. In the fiscal year 2010 bills, we ended the year with a total of $8.2 billion in earmarks, $4.1 billion in defense and $4.1 billion in non-defense, well below 50 percent of the amount in 2006.

As a percentage of discretionary spending, non-project based earmarks are hardly ½ of 1 percent. Not only have we accomplished our objective, we have exceeded our goal.

I am sure others will cite different numbers and try to say that we have many more earmarks than we are counting. The earmark definition that we use for FY 2010 is the one that comes from the Senate rules. Other outside groups may want to consider additional congressional items as earmarks, but we can only go by what the Senate has declared as earmarks.

In summation, let me say this. Since the Democrats have retaken the Congress we have reduced earmarks by more than 50 percent. We are well below 1 percent of total discretionary spending for non-project based earmarks, and we will not be going above 1 percent as long as I am Chairman.

As the Senate considers this amendment, I believe it is time we have an honest debate about the overall subject of earmarks. What they are and what they aren't.

First and foremost, earmarks have nothing to do with the deficit. And let me say that another way to make sure everyone understands.

If we eliminate all earmarks this year or forever, it will not save a nickel in Federal spending. Not a dime. Not this year, next year, or ever.

So to continue on this theme, if we adopt the amendment from the senator from South Carolina, we won't save a penny in fiscal year 2010 or fiscal year 2011. We just change who gets to decide what we spend.

The definition of an earmark is to carve out funding from a budget for a specific purpose. It is not adding to the budget. When we specify that we want an agency to spend a portion of its budget on a specific item we aren't increasing that agency's budget, we are simply reallocating funding within the budget for that purpose.

If that is not completely understood let's look at it this way. The president submits his request to the Congress for funding by agency and budget functions.

Our budget committee reviews the funding requested and tells the appropriations committee how much funding it can spend in the budget resolution.

The budget resolution makes no assumptions about earmarks. It doesn't designate earmark levels in any way, shape or form.

The appropriations committee then divides the total funding provided in the budget resolution among its subcommittees.

The committee doesn't increase an allocation for earmarks, nor does it reduce the allocation if earmarks are not funded.

Instead it provides the subcommittee with a total amount it can spend. For example, the Foreign Operations subcommittee usually chooses not to proide earmarks. That doesn't change the amount of spending the subcommittee provides.

If the Senate adopts this amendment it will dictate that the fiscal year 2011 there will be no earmarks, but the budget committee won't be reducing the allocation to the appropriations committee. The appropriations committee won't reduce the subcommittee allocations. We will just defer to the executive branch to determine how taxpayer funds are spent.

So this debate like all others on the issue of earmarks is who gets to determine how taxpayer funds are allocated, the congress or the Executive Branch?

All my colleagues are aware that the Constitution requires the Congress to determine where our Nation's funds should be spent. There can be no argument on that.

Why then do a handful of members persist in advocating the elimination of the congressional discretion to allocate funds?

Some raise the factor of corruption. We are all too aware the role that earmarks played in the corruption and eventual conviction of one Republican member of the House of Representatives.

While other corruption has swept other Members of the House, little of that had to do with earmarks. It has involved paid vacations or gifts. It has had to do with sweetheart deals in legislation, or possible bribes for legislative favors.

Moreover, the appropriations committee has enacted reforms to minimize any possible chance of corruption by increasing transparency.

As Chairman I now require members to place all of their earmarks on their website 30 days before we act upon their requests.

We then post all earmarks that are to be included in appropriations bills on the committee's website 24 hours before the full committee takes action on the bill.

Furthermore, as directed under Senate Rules, we require each Senator to certify that he or she has no pecuniary interest in any earmark that is requested.

We cannot legislate morality. What we can do and have done, however, is to put safeguards in place to ensure that our actions are above board, transparent, and in the best interest of our constituents.

Clearly if this amendment were to become law it would change who does the earmarking, not whether earmarks are done.

On February 1, the President submitted his appropriations requests to the Congress. The staff of the appropriations committee has begun its detailed examination of that request.

My colleagues should know that our review by the staff and the members of our subcommittees takes months to complete. However, in our preliminary review of the budget we have discovered that the President has requested earmarks totalling $25 billion.

This is a conservative estimate of the executive branch's earmarks and it

uses the same criteria as we would use to identify a congressional spending earmark, specific location or entity, noncompetitive award, and specific dollar amount.

In this first assessment, we find that the administration request exceeds congressional earmarks that were approved last year by more than 100 percent, twice as much.

This amendment would do nothing to stop the practice of earmarking, but rather only eliminate the congressional influence in that process.

But for those who want to persist in championing this amendment as a reform, they should seriously think about the following information.

Last week, the democratic leadership of the House Appropriations Committee announced that they no longer would include earmarks done on behalf of for-profit entities, that means for all practical purposes, private companies.

The reaction from the lobbying community and other interested parties was swift.

According to a March 11 Washington Post article:

> Lobbyists said a prohibition against for profit earmarks will shift their focus from Capitol Hill to the Federal agencies.

Mr. Alan Chvotkin, a lobbyist for the Professional Services Council, was also quoted saying:

> There will be greater attention focused on protecting programs in the President's Budget.

Lobbyists and oversight organizations both agree—the lobbyists will simply go around the Congress and attempt to get their earmarks in the President's Request.

A story that appeared in the March 11 edition of Roll Call reports that Bill Allison of the nonpartisan Sunlight Foundation, which advocates for government transparency, said earmarks should remain in appropriations bills.

> ''The dangerous earmarkers are those going underground,'' Mr. Allison said. ''The real solution is to make them transparent.''

Instead of banning earmarks, Mr. Allison said Congress should focus on creating a centralized place for the public to see who is requesting earmarks and an easily navigable process for following an earmark from start to finish.

Let me say for the record we already do that.

And finally, this from Laura Peterson of Taxpayers for Common Sense, an organization that has been outspoken in its criticism of the appropriations committee.

In a March 10 Congressional Quarterly article, she said:

> Any ban on spending defined as earmarks could end up increasing the practice of securing funding without formally requesting an earmark. I would be concerned that some earmarks might just migrate to the appropriations bills as committee adds.

If it weren't so serious it would be almost laughable. Under this amendment, we won't eliminate earmarks, we will only eliminate our role, a role the Constitution has assigned to the Congress.

Moreover, all our efforts at making earmarks more transparent would be rendered moot.

The reforms we have implemented, which ensured full and open disclosure of who sponsors earmarks, as well as who has given money to those sponsoring earmarks, would be irrelevant.

Instead, we will have these decisions made by unelected bureaucrats in back rooms of agencies scattered all over this city. Is this the transparency that earmark opponents desired? I think not.

I don't understand why those who are the most opposed to the policies of the current president are so intent on putting additional power into his hands and those who serve the Executive Branch. Article I of the Constitution states very clearly:

> No money shall be drawn from the Treasury, but in consequence of appropriations made by law.

The DeMint amendment tramples on the framework established by our founding fathers. In fact, James Madison believed the power of the purse to be the most important power of congress. He called it ''The most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people.''

I want all my colleagues to understand what we are doing today. I want everyone watching this body on the television to understand what we are doing today, so that in the future, no one can say, ''I didn't know.''

This amendment shifts the power to designate the expenditure of and accountability for taxpayers' hard earned dollars away from the representatives they elected, to the Executive Branch, where unelected bureaucrats who are accountable to no taxpayer will make the decisions of where those dollars will be spent.

There were indeed corruptions in the earmark process in the past. No one will dispute that. A Republican member of the House was convicted for corruption related to earmarking.

But we as Democrats addressed that issue when we came into power. We implemented reforms which ensured full and open disclosure of who sponsors earmarks, as well as who has given money to those sponsoring earmarks. It is all outlined for the world to see.

Now with this amendment, not only is transparency in the Congress not continued, but we are shifting the decisionmaking related to billions of dollars—which is another way of saying earmarking—to unelected bureaucrats.

As I said, now with this amendment, not only is transparency in the Congress not continued, but we are shifting the decision-making related to billions of dollars—which is another way of saying earmarking—to unelected bureaucrats that do not have to post anything about their relationships to recipients, who they meet with, when they meet with them, or who bought them dinner. None of those reporting requirements apply to unelected bureaucrats.

I am a strong proponent of earmarks. I am proud to sponsor earmarks that meet the needs of my constituents. Like every other Member of this body, I believe I understand the needs of my State better than the bureaucrats downtown do. I am closer to the people of Hawaii and I owe my allegiance to them.

I will continue to support earmarks for Hawaii as I will support the legitimate earmarks from other members of this institution.

The founders of our great Nation in their wisdom correctly placed the power of the purse in the hands of our elected legislators.

Those who seek to overturn that decision by placing artificial constraints on our ability to carry out that mandate are ultimately undermining our Nation's freedoms. They would create a system where there is no accountability to the voter on how their tax dollars are spent.

This amendment is one of many this institution has faced and will continue to face that seeks to alter the way taxpayer funds are allocated.

Perhaps unwittingly, but if enacted it would turn over spending decisions to the executive branch and weaken our separation of powers. We should not tolerate that.

Finally, to remind my colleagues, this amendment won't save a nickel. It has no impact on the deficit. The amendment serves no purpose other than to take away the Congress's right to determine how funds are allocated. I urge all my colleagues to reject this amendment.

The PRESIDING OFFICER. The time of the Senator from Hawaii has expired.

Mr. INOUYE. Madam President, I thank you very much and I hope this amendment is defeated.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Mississippi.

Mr. COCHRAN. Madam President, I understand we have time allocated to this side of the aisle, and the Senator from South Carolina has agreed to yield me a few minutes, and then he is going to close up debate after I speak.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COCHRAN. Madam President, I oppose the amendment of the Senator from South Carolina. He is a friend of mine. He is a distinguished Senator. He makes an impact here in the Senate that is very impressive. But I think his proposal to impose a virtual moratorium on congressionally directed spending is not in the public's interest.

Some Senators who support the amendment voted earlier this year against creation of a deficit reduction commission and against pay-as-you-go rules. They argued that those initiatives were merely fig leaves and might make Congress feel good, but would not serve any useful purpose and might actually operate against our effort to reduce the national debt.

This amendment also may make you feel good, feel like you are doing something to reduce spending, but in reality, it does not accomplish that goal. Earmarking has nothing to do with how much the Federal Government spends, but it has everything to do with who decides how the Federal Government spends.

The DeMint amendment applies to earmarks in any bill—whether it is authorizing legislation, tax bills, or appropriations bills. The Appropriations Committee drafts bills that conform to the discretionary spending levels established in the annual budget resolution. If it is the will of the Congress, as expressed in the budget resolution, to increase domestic spending by 5 percent, the Appropriations Committee produces bills to conform to that level of spending. If the will of the Senate is to cut discretionary spending below a certain level, the committee will do that as well.

In any case, the committee allocates the discretionary amounts of funding for Federal programs as provided in the budget resolution. We also review the President's budget request, the levels of funding in prior years, and other considerations that are important. We meet with many outside groups during the annual hearing process. We review the requests for funding of every government agency in the executive branch. We also consider the priorities expressed by Members of the Senate. Some come to our hearings and testify as witnesses. We have an annual series of hearings reviewing every Department's budget requests and the agencies that operate within those Departments.

We subject the entire process to careful scrutiny. The Senate as a whole is involved as they want to be in negotiations with the other body, letting us know what their views are, and what we should argue for during conferences with the House. In disagreements with the administration, the Congress really has the power for the final say-so.

We do not all agree on the spending levels approved in the budget resolution. The Senator from South Carolina and I are likely to agree that the discretionary spending level approved for fiscal year 2010 was too high. But the level of spending is not the question before us. The question proposed by the DeMint amendment is whether Congress will allow the executive branch to make 100 percent of all the decisions about how spending is allocated or whether Congress will preserve its constitutional prerogative to appropriate funds for the purposes it deems meritorious.

There are many outstanding civil servants within the executive branch who do their best to manage in a careful way Federal funds in a professional manner. But those persons are not necessarily familiar with the interests of the people in our respective States and with the needs of those we represent.

It is naive to think that political considerations are not going to be a part of the executive branch decision-making process. History belies the notion that executive branch judgment with regard to spending is superior to the legislative branch.

Are my colleagues happy with the way stimulus funding has been spent, unfettered by congressional earmarks? Will western Senators be comfortable appropriating lump sums of money to the Department of the Interior for land acquisition not knowing what lands will be acquired? Inspector general reports arrive almost weekly describing wasteful and sometimes fraudulent spending by executive branch agencies.

Some may think executive branch spending decisions are entirely merit based, immune from political pressure and lapses in judgment. But they are not. That is one of the reasons I am not willing to cede every spending decision to the executive branch. I am not talking about political party-driven decisions, but I am not willing to concede superior public interests in the executive branch as compared with the legislative branch. I think the people of my State are entitled to be represented by advocates of projects that are important to the interests of their State. The programs and legislation that benefit our State they want me to support, and they want it to be in the best interests of my State and the country.

Each Member has to make his or her own analysis of each bill based on the entirety of its contents, the Member's views and background, his or her view of the national interest. So the presence or absence of earmarks is not the determining factor in the quality of the legislative process.

Every piece of legislation we consider in the Senate affects all of our citizens, communities, and industries in different ways. The bill currently before the Senate, which is the FAA authorization bill, has many provisions of particular interest and benefit to communities and sectors of the aviation community.

Madam President, I know the time is limited, and I do not want to prolong the debate. I do not question the motives of any Senator in this legislative process. Actions that we are taking are driven by notions of what is in the best interests of the country. We just happen to disagree, and I strongly disagree with this amendment.

Should we throw up our hands and say: This is a tough job, and let's turn it over to the executive branch; let's respect their decisions, forget our own interests in our States, and our own individual backgrounds and experience? Of course not. That would be an abdication of our responsibilities as Senators.

So the solution is to adopt an aggressive budget resolution; consider all spending and tax bills in a transparent fashion; subject them to public, careful scrutiny; allow Members to propose amendments on any and all provisions of any and all appropriations bills. When they judge it to be wasteful, vote against it. Cut the spending or approve it. In any case, do what each individual Senator thinks is in the public interest, unfettered by makeshift budget restraints that accomplish nothing except shift power from the Congress to the Executive.

The PRESIDING OFFICER. The Senator from South Carolina. Mr. DEMINT. Thank you, Madam President. I thank the Senator from Mississippi and——

Mr. INHOFE. Will the Senator yield?

Mr. DEMINT. No.

Mr. INHOFE. Will the Senator yield?

Mr. DEMINT. No.

Mr. INHOFE. For a question?

Mr. DEMINT. Yes, sir.

Mr. INHOFE. Would you be willing to give me 2 minutes? That is all I need. I want to say and make sure everyone understands this. I have a totally different argument against this. I happen to be ranked as the most conservative Member of the Senate, and all you are trying to do with this thing—all you will end up doing, if you are successful, is giving all this to the executive branch.

Mr. DEMINT. I thank the Senator. I reclaim my time.

Mr. INHOFE. Well——

Mr. DEMINT. All the time so far——

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. All the time so far has been used——

Mr. INHOFE. Let me ask——

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. INHOFE. For a unanimous consent request.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. INHOFE. I ask for a unanimous consent request, please.

Mr. DEMINT. Thank you, Madam President.

The PRESIDING OFFICER. The Senator does not have the floor.

The Senator from South Carolina.

Mr. DEMINT. If the Senator will yield, all the time so far has been yielded to those who oppose the bill. As I understand it, the time will be cut off at 6, and I will use that remaining time.

I do want to thank the appropriators, the Senator from Mississippi, all of those who work for the entire Senate to do what the Members ask as far as to look out for their States, and I do not call into account their motives at all. But I think as Members of the Senate we have to ask ourselves: Is the way we are doing this working?

We can have all the theoretical arguments we want. But what we have is trillions of dollars of debt, many wasteful projects. The trust in our government is at an all-time low, and the earmarks we are sending out all across the

country are mostly now with borrowed money.

So we can talk about our theories all we want, but what we are doing is not working, and perception is reality. With all of our debt, the corruption, the waste, every American has a right to question what we are doing right now. Clearly, if it is a constitutional responsibility for all of us to be here to get money for our States, somehow for the first 200 years of our country that was missed because even a few years ago Ronald Reagan would veto a bill with less than a couple hundred earmarks in it because of all the pork and waste. But now we are in the thousands and tens of thousands. It is out of control. The waste and the fraud and the abuse is so obvious that it is time we see it in the Senate.

If you look at the Constitution, a couple of principles are clear. They expect uniformity across the States, nonpreferential treatment, and that is not what happens with earmarks. Folks, we have to admit, while a lot of the proponents of earmarks will say it is a small part of our total budget, that is like looking at a long train that covers a whole mile and saying the engine is just a small part of that train. But the engine is what pulls the whole train, and earmarks are what pull through a lot of spending and a lot of borrowing.

Just going back 1 year, the big bailout bill—almost a trillion dollars—failed to pass the House, and then they added earmarks and it passed. Following that was a stimulus bill, a candy store of earmarks. After that, the omnibus bill with thousands of earmarks that sailed through the Congress, and even the health care bill. With the ''Nebraska kickback,'' the ''Louisiana purchase,'' Americans now know that we buy votes with earmarks.

Isn't it time we just take a timeout for 1 year and see if we can reform this system? Some of the reforms people are talking about that we have been talking about for years that we have not done—it is time to admit what we are doing is not working.

In the House of Representatives, yesterday, the Republicans led the way. They do not agree on how to deal with earmarks long term, but they agreed that it is enough of a problem that they decided to take a 1-year moratorium on earmarks. The House Republican Conference voted to eliminate earmarks for 1 year. It gives us a chance to take a timeout to try to work on this.

As to the argument that if we do not do earmarks, the administration will do it, folks, we have every power here by the way we appropriate to disallow the use of funds for certain things. We could not only here do what we are supposed to do, which is pass bills that provide funding for programs, and then provide the oversight for the administration—and we require they only use the funds in a nonpreferential, formula-based way or competitive grants or bids—we have every way to restrain the way the administration uses the funds that we appropriate. Then what would happen is, we would resist big spending bills because we did not have our parochial interests, our conflicts of interest to get money for our States.

Senators, we are not here to get money for our States. We are here as representatives of our States in the United States of America, and we put up our hands and say: We are going to defend and protect the Constitution that is about the general welfare of America. We cannot continue to come here every day and talk about our unsustainable debt, and then say: I have to have $1 million for my museum or my local sewer plant when, in fact, this is borrowed money.

We do not have the money we need to keep the promises to seniors we have made for Social Security and Medicare and to defend our country. Yet we spend most of the year trying to get earmarks for our local communities so we can do a press release, so we can talk about bringing home the bacon.

So we can talk about how a lot of these projects may have merit, but what doesn't have merit is when we forgo the interests of our Nation, the general welfare of our people, so that we can do our press releases on our tens of thousands of earmarks.

It is time to bring it to a close, at least for 1 year. The House has taken a bold stand, at least on the Republican side. Let's vote to take a timeout on earmarks, try to get our house in order, re-earn the trust of the American people, and stop putting this debt on the shoulders of our children.

We have a chance in a few minutes to vote on a moratorium of earmarks for 1 year. This is the very least we can do for the people of the United States of America. All of these arguments we can push aside. What America thinks right now is true. There is a connection between the waste, the fraud, the abuse, the debt, the borrowing, and earmarks. There is no question about it.

I implore my colleagues: Set aside the self-interests for one vote. Let's do what is best for our country and vote for a 1-year timeout on earmarks.

Thank you, Mr. President.

Mr. INHOFE. Mr. President, could I ask unanimous consent to have 15 seconds——

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from West Virginia is recognized.

Mr. INHOFE. Mr. President, I ask unanimous consent to have a response.

Mr. ROCKEFELLER. Mr. President, I move to table the amendment and hope it is defeated.

The PRESIDING OFFICER. The Senator from Oklahoma does not have the floor and cannot propound a unanimous consent request at this time.

The Senator from West Virginia has made a motion to table.

Mr. ROCKEFELLER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Montana (Mr. TESTER) are necessarily absent.

I further announce that if present and voting, the Senator from Montana (Mr. TESTER) would vote ''yea.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 29, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—68

Akaka	Gillibrand	Nelson (NE)
Alexander	Gregg	Nelson (FL)
Baucus	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Hutchison	Reid
Bingaman	Inhofe	Roberts
Bond	Inouye	Rockefeller
Boxer	Johnson	Sanders
Brown (OH)	Kerry	Schumer
Bunning	Klobuchar	Shaheen
Burris	Kohl	Shelby
Cantwell	Landrieu	Snowe
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Udall (CO)
Cochran	Lieberman	Udall (NM)
Collins	Lincoln	Voinovich
Conrad	Lugar	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wicker
Feinstein	Murkowski	Wyden
Franken	Murray	

NAYS—29

Barrasso	DeMint	Kyl
Bayh	Ensign	LeMieux
Brown (MA)	Enzi	McCain
Brownback	Feingold	McCaskill
Burr	Graham	McConnell
Chambliss	Grassley	Risch
Coburn	Hatch	Sessions
Corker	Isakson	Thune
Cornyn	Johanns	Vitter
Crapo	Kaufman	

NOT VOTING—3

Bennett	Byrd	Tester

The motion was agreed to.

Mr. COCHRAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3470

The PRESIDING OFFICER. There is now 2 minutes debate equally divided prior to a vote in relation to amendment No. 3470, offered by the Senator from Wisconsin, Mr. FEINGOLD.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the Feingold-Coburn-Sherrod Brown-McCain-McCaskill amendment rescinds any earmarks that have sat on the shelf at the Department of Transportation for more than 10 years without more than 10 percent of it being obligated or spent. It also requires a report by the OMB on how many of these old,

unspent earmarks are at all Federal agencies. This would save an estimated $626 million in the first year and more down the road as other unused earmarks hit the 10-year milestone.

I know many Senators support transportation spending to create jobs and deal with crumbling infrastructure, as do I. But these unused and often unwanted earmarks do nothing to create jobs and fix roads.

The Bush administration supported the amendment, and the Obama administration and Chairwomen Boxer and Murray support the amendment. I hope it is adopted easily.

The PRESIDING OFFICER. Who yields time in opposition?

Mrs. HUTCHISON. Mr. President, I yield my 1 minute to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I would like to make one statement on the DeMint amendment that was just defeated. I have to say this, as the person who was most recently characterized as the most conservative Member of the Senate: If there is anyone out there who thinks that was a conservative vote on earmarks, they are wrong. There has never been one case where an earmark has saved one penny that has been reduced.

I have to say this: Senator DEMINT had $70 million worth of highway earmarks that were in the amendment that we are talking about right now.

Real quickly: The Feingold amendment does not reduce the deficit one penny. Because of environmental laws and other things, the CBO and the administration have said the average time for a highway project is 13 years. For example, in my State of Oklahoma, Highway 40—a huge project—was started in 1991. If this amendment had been in there, that project would have been terminated in 2001.

I urge my conservative friends, unless you just don't like highways and roads, to kill this amendment.

Mrs. HUTCHISON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 11, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—87

Akaka	Baucus	Begich
Barrasso	Bayh	Bennet
Bingaman	Gillibrand	Merkley
Boxer	Graham	Mikulski
Brown (OH)	Grassley	Murkowski
Brownback	Gregg	Murray
Bunning	Hagan	Nelson (NE)
Burr	Harkin	Nelson (FL)
Burris	Hatch	Pryor
Cantwell	Hutchison	Reed
Cardin	Inouye	Reid
Carper	Isakson	Risch
Casey	Johanns	Roberts
Chambliss	Johnson	Sanders
Coburn	Kaufman	Schumer
Collins	Kerry	Sessions
Conrad	Klobuchar	Shaheen
Corker	Kohl	Snowe
Cornyn	Kyl	Specter
Crapo	Lautenberg	Stabenow
DeMint	Leahy	Tester
Dodd	LeMieux	Thune
Dorgan	Lieberman	Udall (CO)
Durbin	Lincoln	Udall (NM)
Ensign	Lugar	Vitter
Enzi	McCain	Warner
Feingold	McCaskill	Webb
Feinstein	McConnell	Whitehouse
Franken	Menendez	Wyden

NAYS—11

Alexander	Inhofe	Shelby
Bond	Landrieu	Voinovich
Brown (MA)	Levin	Wicker
Cochran	Rockefeller	

NOT VOTING—2

Bennett	Byrd

The amendment (No. 3470), as modified, was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Ms. STABENOW. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3458

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided prior to a vote in relation to amendment No. 3458 offered by the Senator from Louisiana, Mr. VITTER.

The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I ask unanimous consent that Senators HUTCHISON and LANDRIEU be added as cosponsors of the amendment.

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

Mr. VITTER. Mr. President, in 2005 we passed the CF program, which is revenue sharing for States, for coastal conservation and other purposes. Unfortunately, that money has been very slow to get to States. Only 15 percent that was supposed to have been distributed by now has been. This amendment helps fix that. It does not spend new money, it does not increase the deficit.

I yield the remainder of my time to Senator LANDRIEU.

Ms. LANDRIEU. Mr. President, I join my colleague in supporting this amendment. We have modified it from the original version. No environmental laws will be ignored. The process will be followed. But this amendment would simply expedite getting money to the Gulf Coast States and to other States that benefit from this program. I ask my colleagues to support it.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, this amendment is completely unrelated to the FAA reauthorization legislation. It deals with a matter that is in the jurisdiction of the Energy Committee. It would make, in my view, inappropriate changes to a program that provides assistance to six coastal States.

I oppose the amendment. I urge my colleagues to oppose it as well. In my view, it will dilute the authority of the Secretary of Interior to properly oversee and ensure the accountability for the funds that are being spent in these programs.

I raise a point of order that the pending amendment violates section 311(a)(2)(A) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, with regard to this technical point of order, pursuant to section 904 of the Congressional Budget Act of 1974, section 4(G)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 41, nays 57, as follows:

[Rollcall Vote No. 52 Leg.]

YEAS—41

Alexander	Ensign	McCain
Barrasso	Enzi	McConnell
Bayh	Graham	Murkowski
Begich	Grassley	Nelson (NE)
Bond	Hagan	Risch
Brownback	Hatch	Roberts
Bunning	Hutchison	Sessions
Burr	Inhofe	Shelby
Chambliss	Isakson	Snowe
Cochran	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Landrieu	Voinovich
Crapo	LeMieux	Wicker
DeMint	Lugar	

NAYS—57

Akaka	Feinstein	Mikulski
Baucus	Franken	Murray
Bennet	Gillibrand	Nelson (FL)
Bingaman	Gregg	Pryor
Boxer	Harkin	Reed
Brown (MA)	Inouye	Reid
Brown (OH)	Johnson	Rockefeller
Burris	Kaufman	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Shaheen
Carper	Kohl	Specter
Casey	Lautenberg	Stabenow
Coburn	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden

NOT VOTING—2

Bennett Byrd

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

The Senator from Washington.

Mrs. MURRAY. Senators should note that the next vote is the last vote we are going to have this evening. The managers do have a managers' package; they are going to clear it tonight.

Tomorrow morning after the Senate convenes at 9:30 a.m., we are slated to complete action on Job 1, so Senators should expect up to two rollcall votes at that time.

As a reminder to all Senators, at 2 p.m. tomorrow there is going to be a live quorum so that we can receive the House managers with respect to the impeachment proceedings. Therefore, all Members are urged to be in the Chamber at 2 p.m. so that proceedings can be expedited.

I yield the floor.

AMENDMENT NO. 3456

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided prior to a vote in relation to amendment No. 3456 offered by the Senator from Connecticut, Mr. LIEBERMAN.

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, this is a bipartisan amendment introduced by Senators Collins, Burr, Voinovich, Feinstein, Ensign, and myself. It would benefit schoolchildren in the District of Columbia, reauthorizing a program we created 7 years ago now that has worked: $20 million to the DC public schools, $20 million to charter schools, and $20 million to the Opportunity Scholarship Program.

The last part is the controversial part. But it should not be. As Senator FEINSTEIN said in her remarks on this amendment, what is there in this amendment to be afraid of? It has helped 1,300 economically disadvantages children to have an opportunity to get out of a public school that the Chancellor of the DC Public Schools says is not working for them.

This measure is supported by Mayor Fenty, Chancellor Michelle Rhee, a majority of the members of the DC Public Schools, and it has been judged by an independent evaluator to be the most effective program of its kind in America.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Iowa.

Mr. HARKIN. Mr. President, first, this program has never been authorized. It was only put into an appropriations bill in 2003. It was extended once.

We had the Department of Education, not this one, the previous one, and this one, do studies of whether this was successful. After 3 years, no statistically significant achievement impacts were observed for students who came from the lowest performing schools—which was the target of the program—or for students who entered the program academically behind. No achievement impacts were found for male students, and there was no statistically significant impact on math scores. Already DC parents have a choice. We have over 60 charter schools here in the District of Columbia, and it is growing all the time. So there is a choice for them to go to charter schools which are public schools open to everyone and they do not discriminate.

So, again, there is no reason for this authorization. The kids who are in those schools on those vouchers can continue. There is no problem with that. But why open it for vouchers when we have got the charter schools building up here?

I might add the chairman of the Committee also, Senator ROCKEFELLER, opposes the amendment.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT) and the Senator from Alabama (Mr. SHELBY).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 55, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—42

Alexander	DeMint	Lieberman
Barrasso	Ensign	Lugar
Bond	Enzi	McCain
Brown (MA)	Feinstein	McConnell
Brownback	Graham	Murkowski
Bunning	Grassley	Nelson (FL)
Burr	Gregg	Risch
Chambliss	Hatch	Roberts
Coburn	Hutchison	Sessions
Cochran	Inhofe	Thune
Collins	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Warner
Crapo	LeMieux	Wicker

NAYS—55

Akaka	Feingold	Menendez
Baucus	Franken	Merkley
Bayh	Gillibrand	Mikulski
Begich	Hagan	Murray
Bennet	Harkin	Nelson (NE)
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed
Brown (OH)	Kaufman	Reid
Burris	Kerry	Rockefeller
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Shaheen
Casey	Lautenberg	Snowe
Conrad	Leahy	Specter
Dodd	Levin	Stabenow
Dorgan	Lincoln	Tester
Durbin	McCaskill	Udall (CO)
Udall (NM)	Webb	Whitehouse
Wyden		

NOT VOTING—3

Bennett Byrd Shelby

The amendment (No. 3456) was rejected.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENTS NOS. 3462; 3467; 3472; 3473, AS MODIFIED; 3474, AS MODIFIED; 3482, AS MODIFIED; 3486, AS MODIFIED; 3487; 3497; 3503; 3504; 3508; 3509; 3510; AND 3531 TO AMENDMENT NO. 3452

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the pending amendment be set aside and that it be in order for the Senate to consider en bloc the amendments listed here—I will read them in a moment—and that the amendments be considered and agreed to; that in the case where an amendment is modified, the amendment, as modified, be considered and agreed to; and the motions to reconsider be laid upon the table en bloc; and that no amendments be in order to the amendments considered in this agreement.

The amendments are as follows: Bennett-Hatch No. 3462; Reid-Ensign No. 3467; McCain No. 3472; Lautenberg No. 3473, to be modified; Barrasso No. 3474, to be modified; Durbin No. 3482, to be modified; Schumer No. 3486, to be modified; Bingaman No. 3487; Cardin No. 3497; Menendez No. 3503; Menendez No. 3504; Johanns No. 3508; Johanns No. 3509; Johanns No. 3510; and Coburn No. 3531.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 3462

(Purpose: To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the City of St. George, Utah for airport purposes)

At the appropriate place, insert the following:

SEC. ___. RELEASE FROM RESTRICTIONS.

(a) IN GENERAL.—Subject to subsection (b), and notwithstanding section 16 of the Federal Airport Act (as in effect on August 28, 1973) and sections 47125 and 47153 of title 49, United States Code, the Secretary of Transportation is authorized to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated August 28, 1973, under which the United States conveyed certain property to the city of St. George, Utah, for airport purposes.

(b) CONDITION.—Any release granted by the Secretary of Transportation pursuant to subsection (a) shall be subject to the following conditions:

(1) The city of St. George, Utah, shall agree that in conveying any interest in the property which the United States conveyed to the city by deed on August 28, 1973, the city will receive an amount for such interest which is equal to its fair market value.

(2) Any amount received by the city under paragraph (1) shall be used by the city of St. George, Utah, for the development or improvement of a replacement public airport.

AMENDMENT NO. 3467

(Purpose: To authorize Clark County, Nevada, to permit the use of certain lands in the Las Vegas McCarran International Airport Environs Overlay District for transient lodging and associated facilities)

On page 364, between lines 17 and 18, insert the following:

SEC. 434. AUTHORIZATION OF USE OF CERTAIN LANDS IN THE LAS VEGAS MCCARRAN INTERNATIONAL AIRPORT ENVIRONS OVERLAY DISTRICT FOR TRANSIENT LODGING AND ASSOCIATED FACILITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), Clark County, Nevada, is authorized to permit transient lodging, including hotels, and associated facilities, including enclosed auditoriums, concert halls, sports arenas, and places of public assembly, on lands in the Las Vegas McCarran International Airport Environs Overlay District that fall below the forecasted 2017 65 dB daynight annual average noise level (DNL), as identified in the Noise Exposure Map Notice published by the Federal Aviation Administration in the Federal Register on July 24, 2007 (72 Fed. Reg. 40357), and adopted into the Clark County Development Code in June 2008.

(b) LIMITATION.—No structure may be permitted under subsection (a) that would constitute a hazard to air navigation, result in an increase to minimum flight altitudes, or otherwise pose a significant adverse impact on airport or aircraft operations.

AMENDMENT NO. 3472

(Purpose: To prohibit the use of passenger facility charges for the construction of bicycle storage facilities)

On page 29, after line 21, insert the following:

SEC. 207(b) PROHIBITION ON USE OF PASSENGER FACILITY CHARGES TO CONSTRUCT BICYCLE STORAGE FACILITIES.—Section 40117(a)(3) is amended—

(1) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii);

(2) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term''; and

(3) by adding at the end the following:

''(B) BICYCLE STORAGE FACILITIES.—A project to construct a bicycle storage facility may not be considered an eligible airport-related project.''.

AMENDMENT NO. 3473, AS MODIFIED

(Purpose: To require a report on Newark Liberty Airport air traffic control)

At the end of title VII, add the following:

SEC. 723. REPORT ON NEWARK LIBERTY AIRPORT AIR TRAFFIC CONTROL TOWER.

Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, on the Federal Aviation Administration's plan to staff the Newark Liberty Airport air traffic control tower at negotiated staffing levels within 1 year after such date of enactment.

AMENDMENT NO. 3474, AS MODIFIED

(Purpose: To require the Administrator to prioritize the review of construction projects that are carried out in cold weather States)

At the end of title VII, add the following:

SEC. 723. PRIORITY REVIEW OF CONSTRUCTION PROJECTS IN COLD WEATHER STATES.

The Administrator of the Federal Aviation Administration shall, to the maximum extent practicable, schedule the Administrator's review of construction projects so that projects to be carried out in a States in which the weather during a typical calendar year prevents major construction projects from being carried out before May 1 are reviewed as early as possible.

AMENDMENT NO. 3482, AS MODIFIED

At the end of title VII, add the following:

SEC. 720. AIR-RAIL CODESHARE STUDY.

(a) CODESHARE STUDY.—Not later than 180 days after the date of the enactment of this Act, the GAO shall conduct a study of—

(1) the current airline and intercity passenger rail codeshare arrangements;

(2) the feasibility and costs to taxpayers and passengers of increasing intermodal connectivity of airline and intercity passenger rail facilities and systems to improve passenger travel.

(b) CONSIDERATIONS.—The study shall consider—

(1) the potential benefits to passengers and costs to taxpayers from the implementation of more integrated scheduling between airlines and Amtrak or other intercity passenger rail carriers achieved through codesharing arrangements;

(2) airport operations that can improve connectivity to intercity passenger rail facilities and stations.

(c) REPORT.—Not later than 1 year after commencing the study required by subsection (a), the Comptroller shall submit the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any conclusions of the Comptroller resulting from the study.

AMENDMENT NO. 3486, AS MODIFIED

On page 201, strike lines 20 through 24, and insert the following:

(b) MINIMUM EXPERIENCE REQUIREMENT.—

(1) IN GENERAL.—The final rule prescribed under subsection (a) shall, among any other requirements established by the rule, require that a pilot—

(A) have not less than 800 hours of flight time before serving as a flightcrew member for a part 121 air carrier; and

(B) demonstrate the ability to—

(i) function effectively in a multipilot environment;

(ii) function effectively in an air carrier operational environment;

(iii) function effectively in adverse weather conditions, including icing conditions if the pilot is expected to be operating aircraft in icing conditions;

(iv) function effectively during high altitude operations; and

(v) adhere to the highest professional standards.

(2) HOURS OF FLIGHT EXPERIENCE IN DIFFICULT OPERATIONAL CONDITIONS.—The total number of hours of flight experience required by the Administrator under paragraph (1) for pilots shall include a number of hours of flight experience in difficult operational conditions that may be encountered by an air carrier that the Administrator determines to be sufficient to enable a pilot to operate an aircraft safely in such conditions.

AMENDMENT NO. 3487, AS MODIFIED

(Purpose: To preserve the essential air service program)

At the end of subtitle B of title IV, add the following:

SEC. 419. REPEAL OF ESSENTIAL AIR SERVICE LOCAL PARTICIPATION PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 of title 49, United States Code, is amended by striking section 41747, and such title 49 shall be applied as if such section 41747 had not been enacted.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 417 of title 49, United States Code, is amended by striking the item relating to section 41747.

AMENDMENT NO. 3497

(Purpose: To extend the termination date for the final order with respect to determining mileage eligibility for essential air service)

Strike section 412 and insert the following:

SEC. 412. EXTENSION OF FINAL ORDER ESTABLISHING MILEAGE ADJUSTMENT ELIGIBILITY.

Section 409(d) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 41731 note) is amended by striking ''September 30, 2010.'' and inserting ''September 30, 2013.''.

AMENDMENT NO. 3503

(Purpose: To require an ongoing monitoring of and report on the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign)

At the end of title VII, add the following:

SEC. 723. ON-GOING MONITORING OF AND REPORT ON THE NEW YORK/NEW JERSEY/PHILADELPHIA METROPOLITAN AREA AIRSPACE REDESIGN.

Not later than 270 days after the date of the enactment of this Act and every 180 days thereafter until the completion of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign, the Administrator of the Federal Aviation Administration shall, in conjunction with the Port Authority of New York and New Jersey and the Philadelphia International Airport—

(1) monitor the air noise impacts of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign; and

(2) submit to Congress a report on the findings of the Administrator with respect to the monitoring described in paragraph (1).

AMENDMENT NO. 3504

(Purpose: To require the Administrator of the Federal Aviation Administration to conduct a study of the safety impact of distracted pilots)

On page 204, between lines 17 and 18, insert the following:

(e) STUDY.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review relevant air carrier data and carry out a study—

(A) to identify common sources of distraction for the cockpit flight crew on commercial aircraft; and

(B) to determine the safety impacts of such distractions.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(A) the findings of the study conducted under paragraph (1); and

(B) recommendations about ways to reduce distractions for cockpit flight crews.

AMENDMENT NO. 3508

(Purpose: To require the Coptroller General of the United States to study the impact of increases in fuel prices on the long-term viability of the Airport and Airway Trust Fund and on the aviation industry in general)

At the end of title VII, add the following:

SEC. 723. STUDY ON AVIATION FUEL PRICES.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on the impact of increases in aviation fuel prices on the Airport and Airway Trust Fund

and the aviation industry in general. The study shall include the impact of increases in aviation fuel prices on—

(1) general aviation;

(2) commercial passenger aviation;

(3) piston aircraft purchase and use;

(4) the aviation services industry, including repair and maintenance services;

(5) aviation manufacturing;

(6) aviation exports; and

(7) the use of small airport installations.

(b) ASSUMPTIONS ABOUT AVIATION FUEL PRICES.—In conducting the study required by subsection (a), the Comptroller General shall use the average aviation fuel price for fiscal year 2010 as a baseline and measure the impact of increases in aviation fuel prices that range from 5 percent to 200 percent over the 2010 baseline.

AMENDMENT NO. 3509

(Purpose: To require the Administrator of the Federal Aviation Administration to identify the benefits of ADS–B for small and medium-sized airports and general aviation users)

On page 77, strike lines 13 through 18, and insert the following:

(2) IDENTIFICATION AND MEASUREMENT OF BENEFITS.—In the report required by paragraph (1), the Administrator shall identify actual benefits that will accrue to National Airspace System users, small and medium-sized airports, and general aviation users from deployment of ADS–B and provide an explanation of the metrics used to quantify those benefits.

AMENDMENT NO. 3510

(Purpose: To extend conditionally the deadlines for equipping aircraft with ADS–B Technology)

On page 80, after line 21, insert the following:

(d) CONDITIONAL EXTENSION OF DEADLINES FOR EQUIPPING AIRCRAFT WITH ADS-B TECHNOLOGY.—

(1) ADS-B OUT.—In the case that the Administrator fails to complete the initial rulemaking described in subparagraph (A) of subsection (b)(1) on or before the date that is 45 days after the date of the enactment of this Act, the deadline described in clause (ii) of such subparagraph shall be extended by an amount of time that is equal to the amount of time of the period beginning on the date that is 45 days after the date of the enactment of this Act and ending on the date on which the Administrator completes such initial rulemaking.

(2) ADS-B IN.—In the case that the Administrator fails to initiate the rulemaking required by paragraph (2) of subsection (b) on or before the date that is 45 days after the date of the enactment of this Act, the deadline described in subparagraph (B) of such paragraph shall be extended by an amount of time that is equal to the amount of time of the period beginning on the date that is 45 days after the date of the enactment of this Act and ending on the date on which the Administrator initiates such rulemaking.

AMENDMENT NO. 3531

(Purpose: To discontinue a Federal program that has never been used since its creation in 2003)

On page 114, strike line 8 and all that follows through page 116, line 6 and insert the following:

SEC. 414. CONVERSION OF FORMER EAS AIRPORTS.

(a) IN GENERAL.—Section 41745 is amended to read as follows:

"§ 41745. Conversion of lost eligibility airports

''(a) IN GENERAL.—The Secretary shall establish a program to provide general aviation conversion funding for airports serving eligible places that the Secretary has determined no longer qualify for a subsidy.

''(b) GRANTS.—A grant under this section—

''(1) may not exceed twice the compensation paid to provide essential air service to the airport in the fiscal year preceeding the fiscal year in which the Secretary determines that the place served by the airport is no longer an eligible place; and

''(2) may be used—

''(A) for airport development (as defined in section 47102(3)) that will enhance general aviation capacity at the airport;

''(B) to defray operating expenses, if such use is approved by the Secretary; or

''(C) to develop innovative air service options, such as on-demand or air taxi operations, if such use is approved by the Secretary.

''(c) AIP REQUIREMENTS.—An airport sponsor that uses funds provided under this section for an airport development project shall comply with the requirements of subchapter I of chapter 471 applicable to airport development projects funded under that subchapter with respect to the project funded under this section.

''(d) LIMITATION.—The sponsor of an airport receiving funding under this section is not eligible for funding under section 41736.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 417 is amended by striking the item relating to section 41745 and inserting the following:

''41745. Conversion of lost eligibility airports.''.

Mr. MCCAIN. Mr. President, I am proud to introduce an amendment along with Senators REID, ENSIGN and KYL to clarify the Grand Canyon Overflights Act of 1987 that sought to restore the natural quiet of the canyon from commercial air tour overflights. After 23 years of numerous rulemakings by the National Park Service and the Federal Aviation Administration, and a lawsuit in 2002, it is now time to move forward to ensure that the 5 million visitors to the Grand Canyon can enjoy its majestic beauty by air or by foot without excessive noise from commercial air tour operators.

Specifically, this amendment would set forth in statute the ''substantial restoration of the natural quiet and experience of the Grand Canyon'' is achieved if for at least 75 percent of each day—between 7 a.m. and 7 p.m—50 percent of the park is free from the sound produced by commercial air tour operations. Additionally, the amendment provides curfews for overflights, particularly during the peak visitor season, so many visitors can enjoy the grand sunset at the Grand Canyon relatively free from overflight noise.

The amendment also sets forth curfews and reduced flight allocations for specific parts of the canyon that are particularly special for many visitors, including the Dragon Corridor on the west rim in the vicinity of Hermits Rest and Dripping Spring, the Zuni Point Corridor that includes the area known as ''Snoopy's Nose,'' and Marble Canyon. I have many fond memories of hiking the canyon with my sons, most recently just last year, and I hope all Americans are able to enjoy the beauty of the canyon without the interference of excessive noise from air tours. I believe this amendment allows without waiting another 23 years for progress.

Over the past few years, there have been strong improvements in quiet technology for aircraft. I am pleased that several of the air tour operators that provide air tours at the Grand Canyon have migrated to quiet technology aircraft. This amendment would mandate the conversion to quiet technology for all air tour operations within 15 years of enactment. Additionally, this amendment provides numerous incentives for operators to convert to quiet technology, including a reduced park entrance fee and increased flight allocations for aircraft that utilize quiet technology.

Lastly, this amendment requires the FAA to review flight allocations for air tour operators serving the Grand Canyon. These allocations have not been reviewed since 2001 and are based on 1990s data. Tourism is essential to Arizona's economic recovery. Over 37 million visitors came to Arizona in 2008 generating over $2.5 billion in tax revenues. There are over 300,000 jobs in Arizona that are tied to tourism in Arizona, and we must ensure that these jobs continue to exist and grow.

Over 5 million tourists, hikers and adventure seekers visited the Grand Canyon in 2008. These visitors have also contributed millions of dollars to the great States of Arizona and Nevada, in addition to the local communities surrounding the Grand Canyon. We must ensure that these visitors have the ability to view the canyon by air if they wish to do so, but in a manner that maintains ''natural quite'' for those visiting the canyon by foot. I think this amendment achieves that goal.

Again, I am proud to have the support of Senators REID, ENSIGN, and KYL who share my commitment to continuing the progress that has been made toward establishing ''natural quiet'' at the Grand Canyon, while continuing to ensure that its majesty is available to be viewed by air for those who wish to do so. I hope my colleagues will join me in supporting this important amendment.

Mr. KERRY. Mr. President, the FAA bill we are considering contains important new changes in both the Disadvantaged Business Enterprise Program, DBE, and the Airport Concessions Disadvantaged Business Enterprise, ACDBE, program. While we have made progress, discrimination in airport related business remains pervasive. Both of these programs are critical to our Nation's efforts to level the playing field in airport related contracting.

Over the past couple of years, both in my role on the Commerce Committee and Aviation Subcommittee and in my former role as chairman of the Committee on Small Business and Entrepreneurship, I have received an enormous amount of evidence about the ongoing existence of race and gender discrimination against minority and

women owned businesses. Discrimination impacts every aspect of the contracting process, every major industry category and hurts all types of disadvantaged business owners including African Americans, Hispanic Americans, Asian Americans, Native Americans, and women. Here in the Congress, we have received a great deal of evidence about the discrimination that specifically impacts minority and women owned businesses in the airport business context. In September of 2008 the Committee on Small Business heard testimony from diverse perspectives about the ongoing problem of discrimination in lending and access to capital across the disadvantaged business perspective, including discrimination against minority and women businesses in airport related business issues. In March of 2009, the House Committee on Transportation and Infrastructure conducted an extensive hearing focused on the DBE and ACDBE programs. They heard testimony about discrimination and needed program improvements from the administration, researchers, advocates and minority and women businesses themselves. And the Senate Aviation subcommittee itself received similar testimony and evidence in our May 2009 hearing—including a large number of disparity studies outlining extremely compelling statistical testimony of discrimination in airport related contracting.

The present day effects of past discrimination, and ongoing current discrimination, continue to be barriers to minority and women owned businesses. Even in the context of the highest constitutional scrutiny required by the Supreme Court, this powerful evidence of discrimination makes the maintenance of these programs imperative and constitutional. It also makes all the more important the changes we have proposed to improve the programs—adjusting the personal net worth cap for inflation, prohibiting excessive and discriminatory bonding, and improving certification training. The disturbing fact is, discrimination is still a major impediment to the formation, growth and success of minority and women business owners. That is unacceptable. Race and gender discrimination are bad for minority and women business owners, bad for our economy and morally wrong. With this bill, we are seeking to remedy that wrong in the FAA context.

VOTE EXPLANATION

Mr. TESTER. Mr. President, due to a meeting at the White House today, I regret I was unable to make the vote on the motion to table the DeMint amendment No. 3454 to H.R. 1586, the legislative vehicle for FAA reauthorization. If present, I would have voted aye, to table the amendment.

MORNING BUSINESS

Mr. ROCKEFELLER. Mr. President, I now ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each, with the following Senators recognized to speak as follows: Senator MERKLEY for up to 5 minutes, Senator SANDERS for up to 15 minutes, and Senator KAUFMAN for up to 20 minutes; and that if there are any Republican speakers, they would be included in an alternating fashion.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Oregon is recognized.

KLAMATH BASIN DROUGHT ASSISTANCE

Mr. MERKLEY. Mr. President, I rise tonight to tell you a tale about the Klamath Basin. It is really two stories about the Klamath Basin. One is of a terrific vision that has come together between fishermen and ranchers and tribes, and the second is a story about a terrible drought. So I want to start with the good news and share a little bit of the vision.

First, let me tell you about the magical place that is the Klamath Basin. It is in southern Oregon and northern California. It is an area of the country that is rich with agricultural resources and exceptional wildlife populations. The basin contains approximately 1,400 family farms and ranches and encompasses over 200,000 acres of farmland irrigated with water from the Klamath River and Klamath Lake.

In 2009, the basin's agricultural industry produced over $440 million in revenue. The Klamath is sometimes referred to as the ''Western Everglades.'' The basin attracts 80 percent of the Pacific Flyway's waterfowl and supports the largest over-wintering population of bald eagles anywhere in the Lower 48 States. It is also home to one of the most productive salmon river systems in the country.

Let me tell you that the allocation of water in this basin has always been a source of enormous tension between the farmers and ranchers, the fishermen—both the instream fishermen and the offshore fishermen—and the tribes. These groups that have traditionally been in contest with each other have come together over the last few years to say that this situation—the uncertainty about water and the poor health of the river—is not sustainable into the future; that all of us could benefit, all of the parties could benefit, if we worked together for a different vision, for a vision that shared a little more regularity with water, that took out some dams that increased the water flow, that had colder water for the salmon, that avoided some of the terrible calamities that occurred, including the worst die-off of fish we have had in the United States of America that happened about a decade ago.

So these stakeholders have developed a collaborative agreement and signed it, called the Klamath Basin Restoration Agreement or KBRA. That agreement is designed to benefit farmers and ranchers as well as the Klamath tribe and fishermen up and down the west coast by offering more certainty about access to water. At the same time, it restores the river and improves habitat and riverflows for native fish species and wildlife refuges.

The development of the Klamath Basin Restoration Agreement is a historic step forward for the region. If it were already in place, it would provide a powerful set of collaborative tools for dealing with drought, for dealing with years when there is a shortage of water. But Congress has not yet acted and those tools are not in place.

That brings us to this current year and the second half of the story. To help me address that, I am going to put up a chart in the Chamber.

This black line on the chart shows what had been the lowest level of Klamath Lake since it has been recorded in Oregon history—the lowest level, which is shown by the black line. This red line represents the level of the lake this year. As you can readily see, the level of the lake is far below the worst ever year that had been recorded—the calamity of 1992. These red dots on the chart represent the level the lake needs to be to provide irrigation water to farmers. There is no conceivable way we are going to get from this red line, as shown on the chart, to these red dots in order to provide water in the normal fashion. That is why we are facing such a calamity this year.

With spring planting season already upon us, it is critical that we take immediate action to respond to this crisis. We have the advantage of tracking this and knowing the crisis is coming. So together we can work to mitigate the worst effects of the drought rather than waiting for the drought to simply play itself out.

A drought of this magnitude requires an unprecedented, integrated, expansive set of responses from the Federal agencies and a dedicated effort to coordinate response efforts along with local and State governments. Along with Senator WYDEN, I have requested the Departments of Agriculture, Interior, and Commerce to dedicate all required resources to address this crisis swiftly. My team has been working with the teams at those Departments, and they are making a lot of progress. But we have to continue pushing forward as fast and as quickly as possible.

There are several key strategies that could help address this: first, acquiring upstream water rights from willing sellers to increase the amount of water that is available in the Klamath Basin; second, to pursue extensive flexibility within the boundaries of law and science to utilize surface water in the most effective possible manner; third, help farmers activate emergency drought wells and otherwise access ground water; and fourth, set up crop idling programs to conserve water.

The worst thing we can do is simply stand by, watch farmers plant their crops, and then watch those crops fail. So I want to say now that there is a big compliment owed to the Departments of Agriculture, Commerce, and Interior for their prompt and engaged action. I know Senator WYDEN and I will stay equally engaged. It is no exaggeration to say that without Federal assistance and cooperation with local and State officials, the impending drought will result in disaster for Klamath Basin communities. So I urge my colleagues to work with me to meet this challenge and avoid this calamity.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

THE ECONOMY

Mr. SANDERS. Mr. President, I wish to say a few words about the nature of the economy today, the cause of the very deep recession we are currently in, and what I think we have to do about it.

Right now, our country is experiencing the worst economy since the Great Depression of the 1930s. While officially unemployment is 9.7 percent, the reality is that we have some 19 percent of our people who are either unemployed or underemployed, people who would like to work 40 hours a week but they are only working 20 or 30 hours a week.

The crisis we are addressing today is magnified by the reality that the recession for the middle class and working families of this country did not just begin in the fall of 2008 with the financial crisis. In fact, the middle class has been collapsing for a very long time.

During the Bush administration, over 8 million Americans slipped out of the middle class and into poverty. Today, some 40 million Americans are living in poverty. During the Bush years, median household income declined by over $2,100. Middle-class Americans earned more income in 1999 than they did in 2008, and middle-class men earned more money in 1973 than they did in 2008, with inflation being accounted for.

When we look at people in this country who are angry, there is the reason. After working long and hard hours, tens of millions of Americans find themselves in worse economic shape today than they were in 10 years ago or even 20 years ago. Meanwhile, while the middle class shrinks and poverty increases, while more and more people lose their health insurance—so today we have 46 million with no health insurance at all—while 4 million American workers have lost their pension over the last 9 years, we continue to see in this country the most unequal distribution of wealth and income of any major country on Earth. That growing inequality is a moral obscenity, but it is a very serious economic problem as well. Because we become a nation in which very few have a whole lot, while a whole lot of people have very little.

The immediate recession was caused, as I think everybody knows, by the greed, the recklessness, and the illegal behavior of a small number of giant financial institutions on Wall Street. These people were not content to be making 40 percent of the profits being made in America. Their CEOs were not content to earn bonuses of tens of millions of dollars a year. The hedge funds were not content to have their owners and managers become billionaires. No, that was not good enough. So what these financial tycoons had to do was to develop and produce worthless, complicated financial instruments which plunged our country and much of the world into a deep recession.

To the frustration of the American people, a year and a half has passed since the financial collapse and what has happened? What actions has the Congress taken to rein in Wall Street, to tell Wall Street that their greed is not acceptable in this country, that they cannot continue to go forward with actions that destroy our economy and the lives of millions of people?

Within a short period of time, the Senate will be considering legislation dealing with financial reform. I wish to congratulate Senator DODD and others on the Banking Committee for the hard work they have done in producing a bill which, in a number of ways, moves us forward. But what I wish to say this evening is that moving us forward is not good enough. The American people want an end now to the recklessness and irresponsibility of Wall Street. They want an accounting and they want real change. They want, in my view, a new Wall Street which invests in the productive economy of small- and medium-sized businesses that actually produce real products and real services and which actually create real jobs, rather than the activities of Wall Street, which is a giant gambling casino, playing with financial instruments that nobody understands and which, at the end of the day, produces nothing real.

As the debate over financial reform moves on, I intend to play an active role in fighting for a number of concepts. Let me enumerate a few of them.

No. 1, right now, people in the State of Vermont, in the State of Colorado, in the State of Rhode Island, and all over this country are paying usurious interest rates on their credit cards, and I use the word ''usury'' advisedly. We now take it for granted, and we accept the fact that our friends and neighbors and family members are paying 20, 25, 30, 35 percent interest rates on their credit cards. That is wrong. That is unjust. In fact, according to every major religion on Earth—Christianity, Judaism, Islam—it is immoral. It is immoral to lend money to people who desperately need that money and then suck the blood out of them because, when they are desperate, they are going to have to pay 30 or 35 percent interest rates. That is immoral. That is wrong.

Over the years, a number of States, including Vermont, have said: We are going to prohibit usury. You can't do it. You can't charge more than 10 percent, 12 percent, 15 percent, whatever it is. But all those laws were made null and void by a Supreme Court decision which resulted in credit card companies being able to go to States which had no usury law and, therefore, they could sell their product all over this country with no limit.

Let us be clear. Those large financial institutions that are charging Americans 25, 30, 35 percent interest rates on their credit cards are no better than loan sharks. In the old days, what loan sharks used to do was break kneecaps if people couldn't repay their loans. Well, these guys don't break kneecaps, but they are destroying lives just the same. People are desperate. They are borrowing money. We have all been to the grocery store and have seen people buying bread and milk with their credit cards, gas to get to work with their credit cards, because that is the only source of revenue they now have available to them, paying 25 to 30 percent. We have to eliminate that once and for all.

I will be bringing forth an amendment which does nothing more than what credit unions now exist under. Credit unions in this country, by law, cannot charge more than 15 percent interest rates, except under exceptional circumstances, and now they can go up to 18 percent, but most of them don't; the vast majority of them don't. I don't think that is asking too much.

Secondly, I am going to bring forth language which will increase transparency at the Federal Reserve. This is an issue, interestingly enough, that brings some of the most conservative Members and some of the most progressive Members together. I remember a year or so ago the chairman of the Fed, Ben Bernanke, came before the Budget Committee on which I serve, and I asked him a very simple question. I said: Mr. Bernanke, my understanding is that you have lent out trillions of dollars of zero interest loans to financial institutions. Trillions of dollars. Can you please tell me and the American people which financial institutions received that money and what the terms were. I don't think that was an unreasonable question—trillions of dollars.

He said: No, Senator, I am not going to do it.

We have since introduced legislation to make them do it, and so forth and so on.

It is beyond my comprehension that we do not know which financial institutions have received trillions of dollars of zero or close to zero interest loans. We don't know about the conflicts of interest that may have existed.

In that regard, let me talk about a scam which is quite unbelievable that

goes on today. What goes on today is, companies such as Goldman Sachs borrow money from the Fed—and I have no reason to doubt that Goldman Sachs also was on the receiving end of these zero interest loans—and they borrow this money for a tenth of a percent, maybe a quarter of a percent, and then they take that money and they invest it in U.S. Treasury securities at 3.5 to 4 percent. That is a pretty good deal. Talk about welfare. Borrow money at zero or half a percent, lend it to the U.S. Government, which has the entire faith and credit of American history behind it, and you make 3 percent, 4 percent. What a deal. That is a pretty good deal. I think we have to end those types of practices and we have to move forward with real transparency at the Fed.

The other thing we have to do, which is enormously important, is have these large financial institutions start lending money to small- and medium-sized businesses that are prepared to create meaningful jobs in this country.

Earlier today, I think the Presiding Officer and I heard from former President Clinton, who made a very important point. He believes—and I agree with him—we can make profound changes in our economy; that over a period of years we can create millions of jobs as we transform our energy system away from fossil fuels to energy efficiency and to sustainable energy. There are small businesses in the energy business in this country that are ready to go, to create the jobs, if they can get reasonable loans, and they can't get that money today. We can transform our energy system. We can give a real spirit to our economy. We can create good-paying jobs, but we have to demand that Wall Street start investing in the real economy.

Another issue I intend to play an active role in is this issue of too big to fail. I have said it once. I have said it many times. If a financial institution is too big to fail, it is too big to exist. We now have four major financial institutions which, if any one of them collapsed today, would bring down the entire economy, and what we have to do is start breaking them up now—now. We have to take action at this point.

I think the American people are angry and they are angry for some good reasons. They are hurting financially. As I mentioned earlier, there are millions of Americans today who have seen a substantial decline in their income and are working incredibly hard and they are wondering what has happened. Then, despite all that, with the trend that has led to the collapse of the middle class as a result of Wall Street greed, we have been driven into a major recession.

The American people want us to have the courage to stand up to Wall Street. I should say that in 2009 alone, our good friends on Wall Street who have unlimited resources spent $300 million in lobbying this institution. They spent $300 million. When they fought for the deregulation over a period of 10 years, they spent $5 billion to be able to engage in the activities which they did engage in and that led us to the recession we are in right now.

So these guys, I guess they can borrow zero interest loans from the Fed—I don't know if they can use that for lobbying or whatever—but they have an unlimited sum of money. I think the American people want us to have the courage to stand with them, to take these guys on no matter how powerful and wealthy they may be. I think the eyes of the country and the eyes of the world will be on what we do.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

COOKING THE BOOKS

Mr. KAUFMAN. Mr. President, last Thursday, the bankruptcy examiner for Lehman Brothers Holding Company released a 2,200-page report about the demise of the firm, which included riveting detail on the firm's accounting practices. That report has put into sharp relief what many of us have expected all along: that fraud and potential criminal conduct were at the heart of the financial crisis.

Now that we are beginning to learn many of the facts, at least with respect to the activities at Lehman Brothers, the country has every right to be outraged. Lehman was cooking its books, hiding $50 billion in toxic assets by temporarily shifting them off its balance sheet in time to produce rosier quarter-end reports. According to the bankruptcy examiner's report, Lehman Brothers's financial statements were ''materially misleading'' and said its executives engaged in ''actionable balance sheet manipulation.'' Only further investigation will determine whether the individuals involved can be indicted or convicted of criminal wrongdoing.

According to the examiner's report, Lehman used accounting tricks to hide billions in debt from its investors and the public. Starting in 2001, that firm began abusing financial transactions called repurchase agreements or repos. Repos are basically short-term loans that exchange collateral for cash in trades that may be unwound as soon as the next day. While investment banks have come to overrely on repos to finance their operations, they are neither illegal nor questionable, assuming, of course, they are clearly accounted for.

Lehman structured some of its repo agreements so the collateral was worth 105 percent of the cash it received—hence, the name ''Repo 105.'' As explained by the New York Times' DealBook:

> That meant that for a few days—and by the fourth quarter of 2007 that meant end-of-quarter—Lehman could shuffle off tens of billions of dollars in assets to appear more financially healthy than it really was.

Even worse, Lehman's management trumpeted how the firm was decreasing its leverage so investors would not flee from the firm. But inside Lehman, according to the report, someone described the Repo 105 transactions as ''window dressing,'' a nice way of saying they were designed to mislead the public.

Ernst & Young, Lehman's outside auditor, apparently became comfortable with and never objected to the Repo 105 transactions. While Lehman could never find a U.S. law firm to provide an opinion that treating the Repo 105 transactions as a sale for accounting purposes was legal, the British law firm Linklaters provided an opinion letter under British law that they were sales and not merely financing agreements. Lehman ran the transaction through its London subsidiary and used several different foreign bank counterparties.

The SEC and Justice Department should pursue a thorough investigation, both civil and criminal, to identify every last person who had knowledge Lehman was misleading the public about its troubled balance sheet—and that means everyone from the Lehman executives, to its board of directors, to its accounting firm, Ernst & Young. Moreover, if the foreign bank counterparties who purchased the now infamous ''Repo 105s'' were complicit in the scheme, they should be held accountable as well.

It is high time that we return the rule of law to Wall Street, which has been seriously eroded by the deregulatory mindset that captured our regulatory agencies over the past 30 years, a process I described at length in my speech on the floor last Thursday. We became enamored of the view that self-regulation was adequate, that ''rational'' self-interest would motivate counterparties to undertake stronger and better forms of due diligence than any regulator could perform, and that market fundamentalism would lead to the best outcomes for the most people. Transparency and vigorous oversight by outside accountants were supposed to keep our financial system credible and sound.

The allure of deregulation, instead, led to the biggest financial crisis since 1929. And now we are learning, not surprisingly, that fraud and lawlessness were key ingredients in the collapse as well. Since the fall of 2008, Congress, the Federal Reserve and the American taxpayer have had to step into the breach—at a direct cost of more than $2.5 trillion—because, as so many experts have said: ''We had to save the system.''

But what exactly did we save?

First, a system of overwhelming and concentrated financial power that has become dangerous. It caused the crisis of 2008–2009 and threatens to cause another major crisis if we do not enact fundamental reforms. Only six U.S. banks control assets equal to 63 percent of the nation's gross domestic

product, while oversight is splintered among various regulators who are often overmatched in assessing weaknesses at these firms.

Second, a system in which the rule of law has broken yet again. Big banks can get away with extraordinarily bad behavior—conduct that would not be tolerated in the rest of society, such as the blatant gimmicks used by Lehman, despite the massive cost to the rest of us.

What lessons should we take from the bankruptcy examiner's report on Lehman, and from other recent examples of misleading conduct on Wall Street? I see three.

First, we must undo the damage done by decades of deregulation. That damage includes—financial institutions that are ''too big to manage and too big to regulate''—as former FDIC Chairman Bill Isaac has called them—a ''wild west'' attitude on Wall Street, and colossal failures by accountants and lawyers who misunderstand or disregard their role as gatekeepers. The rule of law depends in part on manageably-sized institutions, participants interested in following the law, and gatekeepers motivated by more than a paycheck from their clients.

Second, we must concentrate law enforcement and regulatory resources on restoring the rule of law to Wall Street. We must treat financial crimes with the same gravity as other crimes, because the price of inaction and a failure to deter future misconduct is enormous.

Third, we must help regulators and other gatekeepers not only by demanding transparency but also by providing clear, enforceable ''rules of the road'' wherever possible. That includes studying conduct that may not be illegal now, but that we should nonetheless consider banning or curtailing because it provides too ready a cover for financial wrongdoing.

The bottom line is that we need financial regulatory reform that is tough, far-reaching, and untainted by discredited claims about the efficacy of self-regulation.

When Senators LEAHY, GRASSLEY and I introduced the Fraud Enforcement and Recovery Act—FERA—last year, our central objective was restoring the rule of law to Wall Street. We wanted to make certain that the Department of Justice and other law enforcement authorities had the resources necessary to investigate and prosecute precisely the sort of fraudulent behavior allegedly engaged in by Lehman Brothers that we learned about recently.

We all understood that to restore the public's faith in our financial markets and the rule of law, we must identify, prosecute, and send to prison the participants in those markets who broke the law. Their fraudulent conduct has severely damaged our economy, caused devastating and sustained harm to countless hard-working Americans, and contributed to the widespread view that Wall Street does not play by the same rules as Main Street.

FERA, signed into law in May, ensures that additional tools and resources will be provided to those charged with enforcement of our Nation's laws against financial fraud. Since its passage, progress has been made, including the President's creation of an interagency Financial Fraud Enforcement Task Force, but much more needs to be done.

Many have said we should of seek to punish anyone, as all of Wall Street was in a delirium of profitmaking and almost no one foresaw the sub-prime crisis caused by the dramatic decline in housing values. But this is not about retribution. This is about addressing the continuum of behavior that took place—some of it fraudulent and illegal—and in the process addressing what Wall Street and the legal and regulatory system underlying its behavior have become.

As part of that effort, we must ensure that the legal system tackles financial crimes with the same gravity as other crimes. When crimes happened in the past—as in the case of Enron, when aided and abetted by, among others, Merrill Lynch, and not prevented by the supposed gatekeepers at Arthur Andersen—there were criminal convictions. If individuals and entities broke the law in the lead up to the 2008 financial crisis—such as at Lehman Brothers, which allegedly deceived everyone, including the New York Fed and the SEC—there should be civil and criminal cases that hold them accountable.

If we uncover bad behavior that was nonetheless lawful, or that we cannot prove to be unlawful, as may be exemplified by the recent reports of actions by Goldman Sachs with respect to the debt of Greece, then we should review our legal rules in the United States and perhaps change them so that certain misleading behavior cannot go unpunished again. This will not be easy. As the Wall Street Journal's ''Heard on the Street'' noted last week, ''Give Wall Street a rule and it will find a loophole.''

This confirms what I heard on December 9 of last year when I convened an oversight hearing on FERA. As that hearing made clear, unraveling sophisticated financial fraud is an enormously complicated and resource-intensive undertaking, because of the nature of both the conduct and the perpetrators.

Rob Khuzami, head of the SEC's enforcement division, put it this way during the hearing:

> White-collar area cases, I think, are distinguishable from terrorism or drug crimes, for the primary reason that, often, people are plotting their defense at the same time they're committing their crime. They are smart people who understand that they are crossing the line, and so they are papering the record or having veiled or coded conversations that make it difficult to establish a wrongdoing.

In other words, Wall Street criminals not only possess enormous resources but also are sophisticated enough to cover their tracks as they go along, often with the help, perhaps unwitting, of their lawyers and accountants.

Assistant Attorney General Lanny Breuer and Khuzami, along with Assistant FBI Director Kevin Perkins, all emphasized at the hearing the difficulty of proving these cases from the historical record alone. The strongest cases come with the help of insiders, those who have first-hand knowledge of not only conduct but also motive and intent. That is why I have applauded the efforts of the SEC and DOJ to use both carrots and sticks to encourage those with knowledge to come forward.

At the conclusion of that hearing in December, I was confident that our law enforcement agencies were intensely focused on bringing to justice those wrongdoers who brought our economy to the brink of collapse.

Going forward, we need to make sure that those agencies have the resources and tools they need to complete the job. But we are fooling ourselves if we believe that our law enforcement efforts, no matter how vigorous or well funded, are enough by themselves to prevent the types of destructive behavior perpetrated by today's too-big, too-powerful financial institutions on Wall Street.

I am concerned that the revelations about Lehman Brothers are just the tip of the iceberg. We have no reason to believe that the conduct detailed last week is somehow isolated or unique. Indeed, this sort of behavior is hardly novel. Enron engaged in similar deceit with some of its assets. And while we don't have the benefit of an examiner's report for other firms with a business model like Lehman's, law enforcement authorities should be well on their way in conducting investigations of whether others used similar ''accounting gimmicks'' to hide dangerous risk from investors and the public.

At the same time, there are reports that raise questions about whether Goldman Sachs and other firms may have failed to disclose material information about swaps with Greece that allowed the country to effectively mask the full extent of its debt just as it was joining the European Monetary Union, EMU. We simply do not know whether fraud was involved, but these actions have kicked off a continent-wide controversy, with ramifications for U.S. investors as well.

In Greece, the main transactions in question were called cross-currency swaps that exchange cash flows denominated in one currency for cash flows denominated in another. In Greece's case, these swaps were priced ''off-market,'' meaning that they didn't use prevailing market exchange rates. Instead, these highly unorthodox transactions provided Greece with a large upfront payment, and an apparent reduction in debt, which they then paid off through periodic interest payments and finally a large ''balloon'' payment at the contract's maturity. In other words, Goldman Sachs allegedly provided Greece with a loan by another name.

The story, however, does not end there. Following these transactions, Goldman Sachs and other investment banks underwrote billions of Euros in bonds for Greece. The questions being raised include whether some of these bond offering documents disclosed the true nature of these swaps to investors, and, if not, whether the failure to do so was material.

These bonds were issued under Greek law, and there is nothing necessarily illegal about not disclosing this information to bond investors in Europe. At least some of these bonds, however, were likely sold to American investors, so they may therefore still be subject to applicable U.S. securities law. While ''qualified institutional buyers,'' QIBs, in the United States are able to purchase bonds, such as the ones issued by Greece, and other securities not registered with the SEC under Securities Act of 1933, the sale of these bonds would still be governed by other requirements of U.S. law. Specifically, they presumably would be subject to the prohibition against the sale of securities to U.S. investors while deliberately withholding material adverse information.

The point may be not so much what happened in Greece, but yet again the broader point that financial transactions must be transparent to the investing public and verified as such by outside auditors. AIG fell in large part due to its credit default swap exposure, but no one knew until it was too late how much risk AIG had taken upon itself. Why do some on Wall Street resist transparency so? Lehman shows the answer: everyone will flee a listing ship, so the less investors know, the better off are the firms which find themselves in a downward spiral. At least until the final reckoning.

Who is to blame for this state of affairs, where major Wall Street firms conclude that hiding the truth is okay? Well, there is plenty of blame to go around. As I said previously, both Congress and the regulators came to believe that self-interest was regulation enough. In the now-immortal words of Alan Greenspan, ''Those of us who have looked to the self-interest of lending institutions to protect shareholder's equity—myself especially—are in a state of shocked disbelief.'' The time has come to get over the shock and get on with the work.

What about the professions? Accountants and lawyers are supposed to help insure that their clients obey the law. Indeed they often claim that simply by giving good advice to their clients, they are responsible for far more compliance with the law than are government investigators. That claim rings hollow, however, when these professionals now seem too often focused on helping their clients get around the law.

Experts such as Professor Peter Henning of Wayne State University Law School, looking at the Lehman examiner's report on the Repo 105 transactions, are stunned that the accountant Ernst & Young never seemed to be troubled in the least about it. Of course, the fact that a Lehman executive was blowing a whistle on the practice in May 2008 did not change anything, other than to cause some discomfort in the ranks.

While saying he was confident he could clear up the whistleblower's concerns, the lead partner for Lehman at Ernst & Young wrote that the letter and off-balance sheet accounting issues were ''adding stress to everyone.''

As Professor Henning notes, one of the supposed major effects of the Sarbanes-Oxley Act was to empower the accountants to challenge management and ensure that transactions were accounted for properly. Indeed, it was my predecessor, then-Senator BIDEN, who was the lead author of the provision requiring the CEO and CFO to attest to the accuracy of financial statements, under penalty of criminal sanction if they knowingly or willfully certified materially false statements. I don't believe this is a failure of Sarbanes-Oxley. A law is not a failure simply because some people subsequently violate it.

I am deeply disturbed at the apparent failure of some in the accounting profession to change their ways and truly undertake the profession's role as the first line of defense—the gatekeeper—against accounting fraud. In just a few years time since the Enron-related death of the accounting firm Arthur Andersen, one might have hoped that ''technically correct'' was no longer a defensible standard if the cumulative impression left by the action is grossly misleading. But apparently that standard as a singular defense is creeping back into the profession.

The accountants and lawyers weren't the only gatekeepers. If Lehman was hiding balance sheet risks from investors, it was also hiding them from rating agencies and regulators, thereby allowing it to delay possible ratings downgrades that would increase its capital requirements. The Repo 105 transactions allowed Lehman to lower its reported net leverage ratio from 17.3 to 15.4 for the first quarter of 2008, according to the examiner's report. It was bad enough that the SEC focused on a misguided metric like net leverage when Lehman's gross leverage ratio was much higher and more indicative of its risks. The SEC's failure to uncover such aggressive and possibly fraudulent accounting, as was employed on the Repo 105 transactions, provides a clear indication of the lack of rigor of its supervision of Lehman and other investment banks.

The SEC in years past allowed the investment banks to increase their leverage ratios by permitting them to determine their own risk level. When that approach was taken, it should have been coupled with absolute transparency on the level of risk. What the Lehman example shows is that increased leverage without the accountants and regulators and credit rating agencies insisting on transparency is yet another recipe for disaster.

Mr. President, last week's revelations about Lehman Brothers reinforce what I have been saying for some time. The folly of radical deregulation has given us financial institutions that are too big to fail, too big to manage, and too big to regulate. If we have any hope of returning the rule of law to Wall Street, we need regulatory reform that addresses this central reality.

As I said more than a year ago:

> At the end of the day, this is a test of whether we have one justice system in this country or two. If we don't treat a Wall Street firm that defrauded investors of millions of dollars the same way we treat someone who stole $500 from a cash register, then how can we expect our citizens to have faith in the rule of law? For our economy to work for all Americans, investors must have confidence in the honest and open functioning of our financial markets. Our markets can only flourish when Americans again trust that they are fair, transparent, and accountable to the laws.

The American people deserve no less.

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.

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

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

Mr. UDALL of Colorado. Mr. President, before I speak to the topic that brought me to the floor tonight, I want to acknowledge the Presiding Officer's remarks on the situation with Lehman Brothers and others on Wall Street. I know that the Senator is on a mission, and nothing would make him happier, nor me happier, if the story of Lehman Brothers is a story that is told for the last time, much less written for the last time.

I listened with great interest to the narrative that is now unfolding, and with that interest also the sense of horror and outrage and anger that the Presiding Officer clearly carries. A crime is a crime, as it was pointed out, whether it is $500 from a cash register or literally billions, in fact trillions of dollars of net worth that we have seen taken from Americans and American families.

I commend the Presiding Officer for his leadership, and I think he put it well when he pointed out if you are too big to fail, you are too big to exist, and too bad. Never again should that happen. So I wanted to acknowledge the Presiding Officer.

SOLAR UNITING NEIGHBORHOODS ACT

Mr. UDALL of Colorado. Mr. President, I want to speak about a bill that is born from the forward-thinking ideas of our constituents—a bill that will

help spur our Nation's new energy economy and create jobs. To that end, tomorrow I will introduce the Solar Uniting Neighborhoods Act, or the SUN Act.

Last year, I began traveling across Colorado as part of a workforce tour to listen directly to Coloradans and hear their innovative policy ideas to create jobs. These ongoing efforts not only make me proud to be a Coloradan but they help me identify ways the Federal Government can help—or in some cases get out of the way—in supporting economic development and investing in Colorado. The SUN Act comes from directly visiting with Coloradans. It was one of the several job creation proposals developed after I hosted an energy jobs summit last month in Colorado.

Our summit brought together leading clean energy stakeholders from the worlds of business and public interest and government. Many of our top elected officials were there, including Energy Secretary Steven Chu, Governor Bill Ritter, Senator MICHAEL BENNET, and Congressman ED PERLMUTTER. They were there to discuss ways to sensibly spur job growth in our emerging clean energy economy. In the coming weeks, I will be introducing further legislation developed in part from the creative ideas that flowed from the clean energy summit.

The SUN Act will bring common sense to our Tax Code, get government out of the way of developing solar energy and spur job growth in every community across the United States. Americans currently qualify for a 30-percent Federal tax credit for the cost of installing solar panels on their homes. These solar panels are a great way to convert sunlight to electricity, and over time they save American families money on their utility bills. A few years ago, I installed panels on my own home to take advantage of the Sun, which is very strong in the great State of Colorado. But I have come to understand that this option isn't available for all American families who want to receive their electricity from solar power. Why? Well, there can be difficulties attaching solar panels to your home, which is why more and more neighborhoods and towns are creating so-called ''community solar'' projects. In those projects, instead of attaching the panels on every roof on the block, an increasing number of families have decided to place those same solar panels together in one open and unobstructed sunny area near their homes. By grouping these solar panels, you can reduce the cost by 30 percent compared to installing a panel or a set of panels on every roof in the neighborhood. Moreover, community solar projects streamline maintenance and optimize energy production by avoiding trees, buildings, and other obstructions. Whether used by neighbors living at the end of a cul-de-sac or developed by a rural energy cooperative, creating these group solar projects to share energy is a great way to lower the cost of making electricity through the marvelous technology of photovoltaic units.

But there is a problem. Our Tax Code gets in the way. Why? Well, we have seen the Federal Tax Code discourage neighborhood solar projects because it requires the panels to be on your property. To put it simply, Federal law is telling Americans they need to have their solar panels affixed to their roofs instead of being able to partner with their neighbors on a community solar project. So this discourages innovation and slows the growth of solar power as an alternative energy source.

Back to the reason why I am introducing the SUN Act. It makes a small change in the Tax Code so that we no longer will be constrained in this innovative solar energy opportunity. By eliminating the requirement that the solar panel be on one individual's property, it frees Americans to work together on community projects where each individual can claim a tax credit on part of a shared project. This simple turnkey solution makes it easier to adopt and use clean renewable energy.

As more and more Americans are realizing, weaning ourselves off sources of foreign energy is a bipartisan imperative no matter what you think about global warming. Back in 2004, Colorado took a big step forward into the emerging clean energy economy when we approved a renewable electricity standard—a so-called RES. I know the Presiding Officer supports such a concept. It wasn't an easy transition. There were a lot of skeptics who feared setting a goal for renewable energy would result in job losses. I remember it well. I cochaired the campaign for this RES in the State of Colorado with the Republican Speaker of our Statehouse, Lola Spradley, who is a close friend. She and I toured the State during election season in a bipartisan effort. It was a surprise to a lot of people, who thought Republicans and Democrats only fight and disagree. We in fact agreed, and we had a wonderful time campaigning together. We passed the RES.

Colorado has initiated other efforts as well and we have easily created over 20,000 jobs. We have the fourth highest concentration of renewable energy and energy research jobs in our country. Estimates are that the solar energy requirement in the RES—because the RES allows for wind, biomass, and other kinds of renewable energies—created over 1,500 jobs.

So what does this tell us? It tells us what we already know well—that American capitalism can take the seeds of an idea and create positive economic change. So wherever possible, our Federal Government should encourage, not hinder, such entrepreneurial ideas and entrepreneurs.

Other important issues are at play as well. As we find our way out of the current recession, we are witness to the emergence of powerful economic competitors abroad, and we have an increasingly dangerous alliance on foreign fossil fuels. So with these factors in mind for our own economic and national security, Americans must become the world leader in adopting clean energy and creating homegrown jobs.

The story must be told that clean energy is one of the greatest economic opportunities of the 21st century. Fortunately, that is a promise we can meet as the global demand for clean energy is growing by $1 trillion every year. Let me say that again—$1 trillion every year. And what excites me about this bill, like many measures currently being debated here in our Chamber, is that it will create jobs for Americans in every neighborhood where these community solar projects are developed.

This bill reduces many of the barriers which currently prevent Americans from adopting solar energy, opens up new markets and creates a simple structure to allow people to utilize clean energy for their home.

As I close, I can tell you there is nothing more thrilling than making electricity, which I do in my own home. And then, when you need to use it at your home, you use it there. And also, when it is not needed, you send it back on the grid for your neighbors to use. So I urge my colleagues in both parties to join me in supporting this legislation.

I thank the Presiding Officer for his attention.

I yield the floor.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS ERIC D. CURRIER

Mrs. SHAHEEN. Mr. President, I rise today with a heavy heart to pay tribute to the life and service of Marine PFC Eric D. Currier of Londonderry, NH. This young soldier died from wounds inflicted by an enemy sniper in Helmand Province, Afghanistan, on February 17, 2010. Private First Class Currier was just 21 years old at the time of his death. A rifleman, he was a member of the 3rd Battalion, 6th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force based at Camp Lejeune, NC, and was deployed to Afghanistan in January.

Eric was born in Massachusetts but moved to my home State of New Hampshire when he was in the eighth grade. He continued his schooling in Londonderry and graduated from Londonderry High School in 2007. Like many in northern New England, Eric was an avid outdoorsman. He began fishing with his grandfather at the age of three. He enjoyed camping trips with his brothers and was a skilled hunter. He spent many summer days boating, fishing and swimming while staying with his grandparents on Plum Island in Massachusetts. Eric even met his future wife, Kaila Parkhurst, while canoeing on the Saco River as a teenager. He was a fine young man, friendly and

outgoing, who cared deeply for his family. Army PVT Brent Currier, Eric's brother, describes him as the hero of his seven siblings.

Eric enlisted in the Marine Corps in March 2009 with a desire to serve an important cause and make his family proud. He most certainly accomplished those goals. Private First Class Currier selflessly joined the men and women of our armed services who give of themselves each day so that we, as a nation, might enjoy freedom and security. He has earned our country's enduring gratitude and recognition. While Eric's life may have ended too soon, his legacy lives on through the people who loved him and through all of us, who are forever indebted to him.

No words of mine can diminish the pain of losing such a young soldier, but I hope Eric's family can find solace in knowing that all Americans share a deep appreciation of his service. Daniel Webster's words, first spoken during his eulogy for Presidents Adams and Jefferson in 1826, are fitting: ''Although no sculptured marble should rise to their memory, nor engraved stone bear record of their deeds, yet will their remembrance be as lasting as the land they honored.'' I ask my colleagues and all Americans to join me in honoring Eric's life, service and sacrifice.

Private First Class Currier is survived by his wife Kaila; his father Russell Currier; his mother Helen Boudreau and her husband Kevin; siblings Brent, Dylan, Kevin, Melana, Cassie, Jake and Alyssa; as well as grandparents, in-laws, and others. I offer my deepest sympathies to his entire family for their loss, and my sincere thanks for their loved one's service. This young marine will be dearly missed; his death while deployed far from home is another painful loss for our small State and for this Nation. It is my sad duty to enter the name of PFC Eric Currier in the RECORD of the U.S. Senate in recognition of his sacrifice for this country and his contribution to freedom and lasting peace.

VOTE EXPLANATION

Mr. TESTER. Mr. President, due to mechanical trouble that delayed my travel to the Senate on March 15, 2010, I regret I was unable to make the vote on the motion to invoke cloture on the motion to concur in the House amendment to the Senate amendment to the House amendment to the Senate amendment to H.R. 2847, the legislative vehicle of the HIRE Act. If present I would have voted aye.

TAIWAN SELF-DEFENSE REQUIREMENTS

Mr. CORNYN. Mr. President, Taiwan is a steadfast ally in a very turbulent region of the world. On January 29, the State Department approved a $6.4 billion arms package to Taiwan that includes 114 Patriot missiles, 60 Black Hawk helicopters, Harpoon antiship training missiles, and Osprey-class minehunter ships.

I am pleased that the administration is taking this important step toward fulfilling the United States' commitment to Taiwan under the Taiwan Relations Act, TRA, which requires us to make available to Taiwan such defense articles and defense services ''as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.'' However, despite the billions of dollars worth of weapons involved in this sale, it represents little more than a half step in providing Taiwan the defensive arms that it needs—and that we are obligated by law to provide it—to protect itself against rapidly increasing air- and sea-based threats from China. What Taiwan has repeatedly requested—and what was not in the arms package—are new fighter aircraft.

Since 2006, the Taiwanese have made clear their desire to purchase 66 F–16 C/Ds to augment an air fleet that is bordering on obsolescence. On April 22, 2009, Taiwanese President Ma Ying-jeou reiterated Taiwan's commitment to request the F–16C/Ds from the Obama Administration. And, in a December 29, 2009, letter to Senate and House leaders, members of Taiwan's Parliament stated, ''Though economic and diplomatic relations with the People's Republic of China's Communist Party are improving, we face a significant threat from the People's Liberation Army Air Force. Our military must be able to defend our airspace as a further deterioration in the air balance across the Strait will only encourage PRC aggression.''

On January 21, the U.S. Defense Intelligence Agency, DIA, completed a report on the current condition of Taiwan's air force. This formal assessment was required under a provision that I authored in the fiscal year 2010 National Defense Authorization Act, NDAA, which received bipartisan support. The report's findings are grim.

The unclassified version of the report concludes that, although Taiwan has an inventory of almost 400 combat aircraft, ''far fewer of these are operationally capable.'' It states that Taiwan's 60 U.S.-made F–5 fighters have already reached the end of their operational service, that its 126 locally produced Indigenous Defense Fighter aircraft lack ''the capability for sustained sorties,'' and that its 56 French-made Mirage 2000–5 fighter jets ''require frequent, expensive maintenance'' while lacking required spare parts. Furthermore, the report found that although some of Taiwan's 146 F–16 A/Bs may receive improvements to enhance avionics and combat effectiveness, the ''extent of the upgrades, and timing and quantity of aircraft is currently unknown.''

In the past, what has kept Taiwan free and allowed its democracy and free enterprise system to flourish has been a qualitative technological advantage in military hardware over Chinese forces. In simple terms, it would have been too costly for Beijing to contemplate an attack on Taiwan. This in and of itself created a stabilizing effect that promoted dialogue and negotiations. Yet due to the massive, nontransparent increase in China's defense spending, the past 10 years have seen a dramatic erosion in this cornerstone of Taiwan's defense strategy. A gauge of how quickly this tide has turned can be found in the Department of Defense's Annual Report on the Military Power of the People's Republic of China. The 2002 version of this report concluded that Taiwan ''has enjoyed dominance of the airspace over the Taiwan Strait for many years.'' The DOD's 2009 Report now states this conclusion no longer holds true.

Taiwanese defense officials have also recognized this alarming trend, predicting that, in the coming decade, they will completely lose their qualitative edge. Beijing will have an advantage in both troops and arms. This imminent reality holds critical consequences for both our ally Taiwan and the United States. If China becomes emboldened, it might be tempted to try to take Taiwan through outright aggression or cow Taiwan into subservience through intimidation.

How would the U.S. react in the face of Chinese belligerence towards Taiwan? Would we deploy our ships and aircraft to ward off Chinese aggression? Would we decide to counter force with force? These are difficult and tough questions, and the soundest policy option is to ensure they never have to be answered. We know a Taiwan that is properly defended and equipped will raise the stakes for China, and that would serve as the best defense against belligerent acts.

Strategically, assisting Taiwan in maintaining a robust defense capability will help keep the Taiwan Strait stable. We should remember that, in 1996, Beijing rattled its Chinese saber and launched ballistic missiles off Taiwan's coast and initiated amphibious landing training exercises. This prompted President Clinton to dispatch two carrier battle groups as a show of strength. President Ma recently commented on the latest weapons sale by stating, ''The more confidence we have and the safer we feel, the more interactions we can have with mainland China. The new weapons will help us develop cross-strait ties and ensure Taiwan maintains a determined defense and effective deterrence.'' During the Reagan years, we knew this common-sense strategy as ''Peace Through Strength.''

The benefits of an F–16 sale to Taiwan are not limited to national security—this sale also stands to benefit the American economy during a difficult period. The F–16, one of the world's finest tactical aircraft, is proudly assembled in Fort Worth, TX. The overall production effort involves hundreds of suppliers and thousands of workers across the United States. The

sale of 66 aircraft to Taiwan would be worth approximately $4.9 billion and guarantee U.S. jobs for years to come. The ripple effects of this sale through our economy would be significant, especially for workers in states where the recession has hit hard. This sale will also be a shot in the arm to America's defense industrial base, where constructing and equipping the F–16 means high-paying jobs for Americans.

The Obama administration has indicated that it intends to further review Taiwan's request for F–16s. Yet, the time for a decision regarding this sale draws near, and this review cannot be allowed to continue indefinitely. Taiwan needs these F–16 C/D aircraft now. What's more, the F–16 production line is approaching its end, after having manufactured these world-class aircraft for decades and having equipped 25 nations with more than 4,000 aircraft. If hard orders are not received for Taiwan's F–16s this year, the U.S. production line will likely be forced to start shutting down. Once the line begins closing, personnel will be shifted to other programs, inventory orders will be cancelled, and machine tools will be decommissioned. When the F–16 line eventually goes ''cold,'' it is not realistic to expect that it would be restarted. At the same time, through economic and diplomatic threats, China has effectively cut off all other countries from selling arms to Taiwan.

In the months leading up to the administration's recent arms sales announcement, the administration took great pains to telegraph to Beijing their intention that the sale would provide only defensive arms to Taiwan. Nevertheless, China has responded to the sale by threatening U.S. companies, cancelling high-level meetings with U.S. officials, and launching verbal assaults against our country. Beijing's blustering is clearly intended to intimidate the United States and dissuade us from selling new F–16s to Taiwan. This is unacceptable. The United States must not allow Beijing to dictate the terms of any future U.S. arms sales or other support for Taiwan.

President Ma and Taiwan parliamentarians have been clear and direct in their request for these aircraft. It is my hope that they will redouble their efforts here in Congress, as well as with the administration, to make the case and demonstrate the urgent need for the sale of these F–16C/Ds. This is a telling moment for the Obama administration. Our allies are watching carefully, and so are our potential adversaries. Without question, the path of least resistance for the administration would be to not move forward with the sale of F–16s, under the guise of continued analysis of the proposal. Then, once the F–16 production line had shut down, the proposed sale would be a moot issue for the administration. However, that path would ultimately leave Taiwan—and U.S. interests in the region—dangerously exposed. The sale of these F–16s to Taiwan would send a powerful message that the U.S. will stand by our allies, both in the Taiwan Strait and in other parts of the world.

I urge the President to move forward expeditiously with the sale of F–16s to Taiwan. I hope he will do so, and I know that many of my colleagues on both sides of the aisle share this sentiment.

RECONCILIATION

Mr. SPECTER. Mr. President, I seek recognition today to address the subject of reconciliation.

I have previously spoken about gridlock in Congress and the negative impact it is having on our stature internationally. We are unable to confirm judicial and executive nominations which is paralyzing the work of the Senate and putting the government's ability to confront the Nation's challenges at risk. It slows the judicial process and leaves many posts empty, including those in defense and national security.

The most central issue at the moment, however, is health care reform. Health care reform passed both the House of Representatives and the Senate. In the Senate, it passed by a supermajority vote of 60–39. The only issue before us now is aligning the already-passed Senate version with the already-passed House version. Despite its passage by 60–39, Republicans are still trying to stop this bill by threatening to filibuster the amendments needed to bring it into a condition that will pass the House of Representatives.

These tactics, which amount to a minority of Senators halting a bill that has overwhelming support, can be overcome by the often used reconciliation process. The reconciliation process is an optional procedure that operates as an adjunct to the budget resolution process established by the Congressional Budget Act of 1974. The reconciliation process has been used by nearly every Congress since its enactment to pass a vast array of legislation.

In their endless efforts to circumvent the will of the majority and thwart the passage of much needed and much supported health care legislation, the Republicans have launched a campaign against the reconciliation process, making it out to be an illegitimate tactic that the Democrats have invented to pass health care legislation. That is simply untrue.

A look back in time, however, shows that the very same Republicans who are now denouncing the use of reconciliation were the very same Republicans who were defending its use not too long ago.

When he was chair of the Budget Committee, Senator JUDD GREGG, in defending the use of reconciliation to try to pass an amendment allowing oil drilling in the Arctic National Wildlife Refuge in 2005 said, ''Reconciliation is a rule of the Senate set up under the Budget Act. It has been used before for purposes exactly like this on numerous occasions. The fact is all this rule of the Senate does is allow a majority of the Senate to take a position and pass a piece of legislation, support that position. Is there something wrong with 'majority rules'? I don't think so.''

When using reconciliation to pass Medicare spending, Senator GREGG said, ''You can't get 60 votes because the party on the other side of the aisle simply refuses to do anything constructive in this area.'' Senator CHUCK GRASSLEY, when defending the use of reconciliation to pass the Bush tax cuts, said that reconciliation was ''the way it will have to be done in order to get it done at all.''

Last year Republican Congressman PAUL RYAN said of Democrats using reconciliation, ''It's their right. They did win the election. We don't like it because we don't like what looks like the outcome.''

Republicans are implying that reconciliation is a new idea, and has never been used to pass significant legislation. The fact is, since 1980, Congress has sent 22 reconciliation bills to the President. Of those, 16 enacted into law occurred under Republican majority control.

The 16 reconciliation bills created with a Republican majority included:

FY	Majority	Resultant reconciliation act(s)	Veto?
1981	Republican	Omnibus Budget Reconciliation Act of 1980 (P.L. 96–499)	None.
1982	Republican	Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35)	None.
1983	Republican	Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97–248)	None.
	Republican	Omnibus Budget Reconciliation Act of 1982 (P.L. 97–253)	None.
1984	Republican	Omnibus Budget Reconciliation Act of 1983 (P.L. 98–270)	None.
1986	Republican	Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99–272)	None.
1996	Republican	Balanced Budget Act of 1995	Vetoed by Clinton.
1997	Republican	Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193).	None.
1998	Republican	Balanced Budget Act of 1997 (P.L. 105–33)	None.
	Republican	Taxpayer Relief Act of 1997 (P.L. 105–34)	None.
2000	Republican	Taxpayer Refund and Relief Act of 1999 (H.R. 2488)	Vetoed by Clinton.
2001	Republican	Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810)	Vetoed by Clinton.
2002	Republican	Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107–16)	None.
2004	Republican	Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27)	None.
2006	Republican	Deficit Reduction Act of 2005 (P.L. 109–171)	None.
	Republican	Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109–222)	None.

The six reconciliation bills created with a Democratic majority included:

Fiscal year	Majority	Resultant reconciliation act(s)	Veto?
1987	Democrat	Omnibus Budget Reconciliation Act of 1986 (P.L. 99–509)	None.
1988	Democrat	Omnibus Budget Reconciliation Act of 1987 (P.L. 100–203)	None.
1990	Democrat	Omnibus Budget Reconciliation Act of 1989 (P.L. 101–239)	None.
1991	Democrat	Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508)	None.
1994	Democrat	Omnibus Budget Reconciliation Act of 1993 (P.L. 103–66)	None.
2008	Democrat	College Cost Reduction and Access Act of 2007 (P.L. 110–84)	Vetoed by Clinton.

This could not be further from the truth. The new Reagan administration and Republican majority in 1981 that first used reconciliation to pass major legislation—Reagan's tax cuts—and used it again in 1982 to cut spending and roll back some tax cuts. A Republican-controlled Senate also used reconciliation to pass the 1996 welfare overhaul, the Children's Health Insurance Program, Medicare Advantage and COBRA.

Republicans have used reconciliation many times to pass partisan bills. For example, the 1995 Balanced Budget Act, the 2001 Bush tax cuts, the 2003 Bush tax cuts, the 2005 Deficit Reduction Act, and the 2006 Tax Relief Extension Act were all passed in reconciliation and with small vote margins. Two of these passed only with the tie-breaking intervention of Vice President Dick Cheney, and Democrats got more votes for the health bill than any of these measures received.

Republicans have also complained that reconciliation is not proper for a health care bill. However, over the past 20 years, reconciliation has been used to pass almost all major pieces of health care legislation, including COBRA; the Children's Health Insurance Program; the Emergency Medical Treatment and Active Labor Act, which requires hospitals that take Medicaid and Medicare to treat anyone entering an ER; and welfare reform, which disentangled Medicaid from welfare.

Further, the health care bill has already passed with 60 votes. It is only the amendments that need to pass via reconciliation. The 2009 budget resolution instructed both Houses of Congress to enact health care reform. Again, comprehensive health legislation has already passed both Chambers, garnering a majority in the House and a supermajority in the Senate. Since the House and the Senate versions are slightly different, using reconciliation to implement the budget resolution by reconciling the two bills follows established procedure. Reconciliation will be used only to pass a small package of fixes to the original health bills that are necessary to align the House and Senate versions. This is actually less ambitious than the usual reconciliation process, which usually applies to entire bills, not just small fixes.

RADIO SPECTRUM INVENTORY ACT

Mr. CONRAD. Mr. President, I express my support for S. 649, the Radio Spectrum Inventory Act. I am joining as a cosponsor of this legislation because it is important to complete a comprehensive assessment of how we use our radio spectrum before we make decisions about how we want to use it in the future.

As the FCC submits the Nation's first broadband plan to Congress, we have heard much about the need for allocating additional spectrum for the expansion of mobile broadband service. There is little question that rapidly expanding these networks is of critical importance—especially in rural States like North Dakota, which rely on 21st-century technology like mobile broadband to stay competitive.

However, without a thorough understanding of how our public airwaves are currently being used, making a plan to reallocate spectrum would be putting the cart before the horse. For that reason, I strongly believe that the Congress should pass this legislation and policymakers should wait to review the results of the inventory it requires before decisions are made about how or where spectrum should be distributed for the expansion of mobile broadband services. This will allow us to shape spectrum policy in a more thoughtful manner.

Just as the National Broadband Plan gives us for the first time a comprehensive plan for broadband deployment and use, the Radio Spectrum Inventory Act will provide for the first time a comprehensive map of how the public airwaves are used—for radio broadcasts, over-the-air television, mobile phones, public safety, and mobile broadband. There are too many users involved to move forward in a piecemeal way. Ultimately, spectrum reallocation is too important to rush.

TRIBUTE TO GREG KENDALL

Mr. GREGG. Mr. President, I rise today on behalf of myself and my wife Kathy to pay tribute to Officer Greg Kendall of Rye, NH, who retired on January 1, 2010, after 50 years of service as an educator and law enforcement officer. It is important for us to take a moment to recognize and honor Officer Kendall's long career as a dedicated public servant. Citizens like Greg Kendall ensure that our communities remain great places to live, work, and raise a family. The outstanding community service demonstrated by him is what inspires people to leave behind a better society than they found, and contribute to the betterment of their local community.

Greg, whom Rye Police Chief Kevin Walsh describes as ''irreplaceable,'' is both well known and highly respected throughout New Hampshire's Seacoast community, where he has served on the Rye police force and as an educator in the Rye and Seabrook school districts. Starting out on summer beach patrol in 1960 as a full-time officer, Greg continued to serve as a police officer on weekends while also beginning his career in education as a full-time sixth grade teacher at Rye Junior High School. Upon finishing graduate studies at the University of New Hampshire and the University of Maine, he became the principal at Rye Junior High School, where he continued to guide and shape the education and character of a generation of young students over the next 16 years. Following that, Greg taught in Seabrook for an additional 13 years, all while serving nights and weekends as a special officer in Rye. Since 2001, Greg has also been animal control officer, performing his duties with the same compassion, calm demeanor, and professionalism that he always brought to his shifts on patrol or lessons in the classroom.

On a personal note, I had the pleasure of serving with Greg when, in the summer of 1968, I worked as a special officer on the Rye Police Force. The town of Rye, the people of the region and the State of New Hampshire are all better off for Greg's wisdom, skills, and experience. He is a friend and someone whose sense of humor, expertise and dedication I have always admired. Kathy and I join Greg's friends and neighbors in Rye in honoring him as an officer of the law, an educator of youth, and a motivator for us all. Thank you, Greg Kendall. We wish you the best in all your future endeavors; may they be as rewarding as those of the last 50 years.

MESSAGE FROM THE HOUSE

At 10:54 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 bill, in which it requests the concurrence of the Senate:

H.R. 2377. An act to direct the Secretary of Education to establish and administer an awards program recognizing excellence exhibited by public school system employees providing services to students in pre-kindergarten through higher education.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2377. An act to direct the Secretary of Education to establish and administer an

awards program recognizing excellence exhibited by public school system employees providing services to students in pre-kindergarten through higher education; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 2314. An act to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

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–5034. A communication from the Chief of Research and Analysis, Food and Nutrition Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''The Emergency Food Assistance Program: Amendments to Requirements Regarding the Submission of State Plans and Allowability of Certain Administrative Costs'' (RIN0584–AD94) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5035. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting the report of (4) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–5036. A communication from the Director, Pentagon Renovation and Construction Program Office, Department of Defense, transmitting, pursuant to law, the Office's Annual Report for the year ending March 1, 2010; to the Committee on Armed Services.

EC–5037. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a biennial report entitled ''Implementation of the Deep Sea Coral Research and Technology Program''; to the Committee on Commerce, Science, and Transportation.

EC–5038. 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 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations; (Birmingham, Alabama)'' (MB Docket No. 10–21) received in the Office of the President of the Senate on March 11, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5039. 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 (Port Angeles, Washington)'' (MB Docket No. 08–228) received in the Office of the President of the Senate on March 12, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5040. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Inseason Closure of the Recreational Fishery for Greater Amberjack in Federal Waters of the Gulf of Mexico'' (RIN0648–XS50) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5041. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Minimum Atlantic Surfclam Size Limit for Fishing Year 2010'' (RIN0648–XS18) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5042. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Amendment 15B to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region'' (RIN0648–AW12) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5043. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Correcting Amendment to Implement Recordkeeping and Reporting Revisions'' (RIN0648–AY37) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5044. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Reopening of the Commercial Fishery for Gulf Group King Mackerel in the Florida East Coast Subzone for the 2009–2010 Fishing Year'' (RIN0648–XU38) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5045. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Pacific Coast Groundfish; Biennial Specifications and Management Measures; Inseason Adjustments'' (RIN0648–AY40) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5046. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products'' (RIN3084–AB09) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5047. A communication from the Acting Director of the Office 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; Pacific Cod by Catcher/Processors Using Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XU65) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5048. A communication from the Acting Director of the Office 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; Closed Directed Fishing for Pacific Cod, Jig and Hook-and-Line Vessels, Bering Sea, Bogoslof Area'' (RIN0648–XU64) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5049. A communication from the Acting Director of the Office 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; Closed Directed Fishing for Pacific Cod, Offshore Component, Central Gulf of Alaska, A Season'' (RIN0648–XU63) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5050. A communication from the Acting Director of the Office 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; Closed Directed Fishing for Pacific Cod, Non-American Fisheries Act Crab Vessels, Offshore Component, Western Gulf of Alaska'' (RIN0648–XU62) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5051. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Correction'' (RIN0648–XU17) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5052. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Public Assistance Eligibility'' ((44 CFR Part 206)(Docket No. FEMA–2006–0028)) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5053. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket No. FEMA–2008–0020)) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5054. 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 Australia; to the Committee on Banking, Housing, and Urban Affairs.

EC–5055. A communication from the Assistant General Counsel for Legislation and Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program for Certain Commercial and Industrial Equipment: Test Procedure for Metal Halide Lamp Ballasts (Active and Standby Modes) and Proposed Information Collection; Comment Request; Certification, Compliance, and Enforcement Requirements for Consumer Products and Certain Commercial and Industrial Equipment; Final Rule and Notice'' (RIN1904–AB87) received in the Office of the President of the Senate on March 12, 2010; to the Committee on Energy and Natural Resources.

EC–5056. A communication from the Assistant General Counsel for Legislation and Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Weatherization Assistance for Low-Income Persons: Maintaining the Privacy of Applicants for and Recipients of Services'' (RIN1904–AC16) received in the Office of the President of the Senate on March 12, 2010; to the Committee on Energy and Natural Resources.

EC–5057. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Topeka, Kansas, Flood Risk Management Project; to the Committee on Environment and Public Works.

EC–5058. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the transfer of Phalanx Close-In Weapon System Block 1B Baseline 1 systems, including spare and repair parts, installation, and maintenance to the United Arab Emirates in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–5059. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including, technical data, and defense services to Japan relative to the design, manufacture, and repair of the Long Range Chinook Helicopter Variants (CH–47JA+) and the modification of CH–47JA helicopters in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–5060. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to overseas surplus property; to the Committee on Foreign Relations.

EC–5061. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Classification of Benzoyl Peroxide as Safe and Effective and Revision of Labeling to Drug Facts Format; Topical Acne Drug Products for Over-The-Counter Human Use; Final Rule'' ((RIN0910–AG00)(Docket Nos. FDA–1981–N–0114 and FDA–1992–N–0049)) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5062. A communication from the Acting Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Part 4022) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5063. A communication from the Acting Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''USERRA Benefits Under Title IV of ERISA'' (RIN1212–AB19) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5064. A communication from the Chief Human Capital Officer, Corporation for National and Community Service, transmitting, pursuant to law, a report relative to a vacancy in the position of Chief Executive Officer of the Corporation for National and Community Service, received in the Office of the President of the Senate on March 11, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5065. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2009 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–5066. A communication from the Chief Privacy Officer, Department of Homeland Security, transmitting, pursuant to law, a report entitled ''Privacy Office Fourth Quarter Fiscal Year 2009 Report to Congress''; to the Committee on Homeland Security and Governmental Affairs.

EC–5067. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Office of Community Oriented Policing Services (COPS Office) Annual Report for Fiscal Year 2009; to the Committee on the Judiciary.

EC–5068. A communication from the Director of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''VA Acquisition Regulation: Supporting Veteran-Owned and Service-Disabled Veteran-Owned Small Businesses'' (RIN2900–AM92) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Veterans' Affairs.

EC–5069. A communication from the Acting Director 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 of Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska'' (RIN0648–XU73) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–90. A message from the Secretary-General of the United Nations petitioning support for Nuclear Disarmament and Non-Proliferation; to the Committee on Foreign Relations.

THE SECRETARY-GENERAL,
FEBRUARY 26, 2010.

Mr. JOSEPH R. BIDEN, Jr.
President, Senate, United States of America, Washington, DC.

DEAR MR. JOSEPH R. BIDEN, JR., We stand at a watershed moment for the achievement of international security through a world free of nuclear weapons. For several years now, momentum has been building towards this goal, due in no small part to the diligent efforts of civil society and parliamentarians.

I have tried to do my part to revitalize the peace and disarmament agenda. In October 2008, I presented a five-point proposal for nuclear disarmament. Greatly encouraged by the support that has been expressed for my initiative, I welcomed, in particular, the call by the Inter-Parliamentary Union in April 2009 for parliaments to instruct their Governments to support this proposal. I salute the Parliamentary Network for Nuclear Non-Proliferation and Disarmament for its related efforts and for its work towards building support for a nuclear weapon convention.

Since 2008, we have seen progress. The Russian Federation and the United States have negotiated on further reductions of their strategic nuclear arsenals. The Security Council held a historic summit on nuclear disarmament and non-proliferation. Treaties establishing nuclear-weapon-free zones have entered into force in Africa and Central Asia. Calls for global nuclear disarmament have emanated from many quarters and detailed plans have been proposed containing practical ideas to achieve the goal of global zero.

In order to sustain this momentum ahead of the 2010 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, I have proposed an Action Plan on Nuclear Disarmament and Non-Proliferation. My plan is founded on a fundamental principle: nuclear disarmament and nuclear non-proliferation are mutually reinforcing and inseparable. In my action plan, I promised to explore ways to encourage greater involvement by civil society and parliamentarians.

Parliamentarians and parliaments play a key role in the success of disarmament and non-proliferation efforts. Parliaments support the implementation of treaties and global agreements contributing to the rule of law and promoting adherence to commitments. They adopt legislation that increases transparency and accountability, thus building trust, facilitating verification and creating conditions that are conducive to the further pursuit of disarmament.

At a time when the international community is facing unprecedented global challenges, parliamentarians can take on leading roles in ensuring sustainable global security, while reducing the diversion of precious resources from human needs. As parliaments set the fiscal priorities for their respective countries, they can determine how much to invest in the pursuit of peace and cooperative security. Towards this end, parliaments can establish the institutional infrastructures to support the development of necessary practical measures.

I would therefore like to take this opportunity to encourage all parliamentarians to join in efforts to achieve a nuclear-weapon-free world. In particular, I call upon parliamentarians to increase their support for peace and disarmament, to bring disarmament and non-proliferation treaties into force, and to start work now on the legislative agendas needed to achieve and sustain the objective of nuclear disarmament.

I look forward to opportunities to work with you to advance global nuclear disarmament and non-proliferation.

Yours sincerely,

BAN KI-MOON.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with amendments:

H.R. 885. A bill to elevate the Inspector General of certain Federal entities to an Inspector General appointed pursuant to section 3 of the Inspector General Act of 1978.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Jessie Hill Roberson, of Virginia, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2013.

*Joseph F. Bader, of the District of Columbia, to be a Member of the Defense Nuclear

Facilities Safety Board for a term expiring October 18, 2012.

*Peter Stanley Winokur, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2014.

Air Force nomination of Brig. Gen. Byron C. Hepburn, to be Major General.

Air Force nomination of Col. Robert R. Redwine, to be Brigadier General.

Army nomination of Lt. Gen. James D. Thurman, to be General.

Army nomination of Lt. Gen. Jack C. Stultz, Jr., to be Lieutenant General.

Army nomination of Maj. Gen. John W. Morgan III, to be Lieutenant General.

Army nomination of Lt. Gen. David M. Rodriguez, to be Lieutenant General.

Navy nomination of Vice Adm. Paul S. Stanley, to be Vice Admiral.

Marine Corps nomination of Maj. Gen. Walter E. Gaskin, Sr., to be Lieutenant General.

Marine Corps nomination of Brig. Gen. Melvin G. Spiese, to be Major General.

Marine Corps nomination of Col. Vaughn A. Ary, to be Major General.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nominations beginning with Elwood M. Barnes and ending with Rex A. Williams, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Air Force nominations beginning with Calvin N. Anderson and ending with Roger M. Welsh, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Air Force nominations beginning with Brian L. Bengs and ending with Lisa F. Willis, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Air Force nominations beginning with Donnette A. Boyd and ending with Paul D. Sutter, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Air Force nominations beginning with Richard S. Beyea III and ending with Travis C. Yelton, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Air Force nominations beginning with Afsana Ahmed and ending with Reggie D. Yager, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Army nominations beginning with Douglas R. Dixon and ending with Vicki J. Wyan, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2010.

Army nominations beginning with Romney C. Andersen and ending with D002085, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2010.

Army nominations beginning with Charles E. Bane and ending with D003028, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2010.

Army nominations beginning with Richard Acevedo and ending with D005704, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2010.

Army nominations beginning with Joseph C. Alexander and ending with Don H. Yamashita, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2010.

Army nominations beginning with David A. Allen and ending with Young J. Yauger, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2010.

Army nominations beginning with Matthew H. Adams and ending with Matthew H. Watters, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Marine Corps nominations beginning with Henry C. Bodden and ending with David M. Sousa, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nominations beginning with James R. Reusse and ending with Jeffrey P. Wooldridge, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nominations beginning with Anthony Redman and ending with Gary J. Spinelli, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nominations beginning with Mark E. Dumas and ending with James Smiley, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nominations beginning with Steven S. Devost and ending with William E. Lanham, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nominations beginning with Tony C. Armstrong and ending with Shelton Williams, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nominations beginning with Charles R. Baughn and ending with John P. Mullery, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nominations beginning with Randall E. Davis and ending with Brian L. White, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nominations beginning with Brent L. English and ending with Anthony C. Lyons, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nominations beginning with Robert Boyero and ending with Andrew R. Strauss, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Marine Corps nomination of Dennis L. Parks, to be Lieutenant Colonel.

Marine Corps nominations beginning with Steve K. Braund and ending with Steven E. Sprout, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Marine Corps nominations beginning with Charles E. Daniels and ending with Jay A. Rogers, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Marine Corps nominations beginning with Timothy L. Collins and ending with Steven J. Lengquist, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Marine Corps nominations beginning with Michael R. Glass and ending with Donald L. Hultz, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Marine Corps nominations beginning with Steven M. Dotson and ending with James I. Saylor, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Marine Corps nominations beginning with Jack G. Abate and ending with Jason A. Higgins, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2010.

Navy nominations beginning with Craig E. Bundy and ending with Yaron Rabinowitz, which nominations were received by the Senate and appeared in the Congressional Record on February 22, 2010.

Navy nomination of Michael C. Biemiller, to be Commander.

*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.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY:

S. 3118. A bill to amend title 38, United States Code, to provide that monetary benefits paid to veterans by States and municipalities shall be excluded from consideration as income for purposes of pension benefits paid by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mrs. GILLIBRAND (for herself, Mr. LIEBERMAN, Mr. DODD, and Mr. SCHUMER):

S. 3119. A bill to amend and reauthorize certain provisions relating to Long Island Sound restoration and stewardship; to the Committee on Environment and Public Works.

By Mr. SPECTER (for himself and Mr. DURBIN):

S. 3120. A bill to encourage the entry of felony warrants into the National Crime Information Center database by States and provide additional resources for extradition; to the Committee on the Judiciary.

By Mr. BURR (for himself and Mrs. HAGAN):

S. 3121. A bill to amend title 10, United States Code, to authorize the Secretary of the Army to lease portions of the Airborne and Special Operations Museum facility to the Airborne and Special Operations Museum Foundation to support operation of the Museum; to the Committee on Armed Services.

By Mr. ENSIGN (for himself, Mr. RISCH, Mr. VITTER, Mr. BARRASSO, Mr. BENNETT, and Mr. ENZI):

S. 3122. A bill to require the Attorney General of the United States to compile, and make publicly available, certain data relating to the Equal Access to Justice Act, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. SPECTER, Mr. HARKIN, Mr. BENNET, Mrs. SHAHEEN, Mr. CASEY, Ms. KLOBUCHAR, Mrs. GILLIBRAND, Mr. BROWN of Ohio, Mr. UDALL of New Mexico, Mr. DURBIN, Mrs. MURRAY, Mr. SCHUMER, and Mr. SANDERS):

S. 3123. A bill to amend the Richard B. Russell National School Lunch Act to require the Secretary of Agriculture to carry out a

program to assist eligible schools and nonprofit entities through grants and technical assistance to implement farm to school programs that improve access to local foods in eligible schools; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. KLOBUCHAR (for herself and Mr. HARKIN):

S. 3124. A bill to amend the Richard B. Russell National School Lunch Act to improve child health and nutrition and reduce administrative burdens for child care sponsors and providers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. NELSON of Florida:

S. 3125. A bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund; to the Committee on Finance.

By Ms. KLOBUCHAR:

S. 3126. A bill to amend the Richard B. Russell National School Lunch Act to promote the health and wellbeing of schoolchildren in the United States through effective local wellness policies, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. GILLIBRAND:

S. 3127. A bill to amend the Child Nutrition Act of 1966 to require regular updating of the supplemental foods provided under the special supplemental nutrition program for women, infants, and children; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. GILLIBRAND:

S. 3128. A bill to amend the Richard B. Russell National School Lunch Act to ensure the categorical eligibility of foster children for free school lunches and breakfasts; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. GILLIBRAND:

S. 3129. A bill to amend the Child Nutrition Act of 1966 to allow States to certify children for participation in special supplemental nutrition program for women, infants, and children for a period of 1 year; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BENNET:

S. 3130. A bill to provide that, if comprehensive health care reform legislation provides Americans access to quality, affordable health care is not enacted by June 30, 2010, then Members of Congress may not participate or be enrolled in a Federal employees health benefits plan under chapter 89 of title 5, United States Code; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WEBB (for himself and Mr. WARNER):

S. Res. 456. A resolution congratulating Radford University on the 100th anniversary of the university; considered and agreed to.

ADDITIONAL COSPONSORS

S. 132

At the request of Mrs. FEINSTEIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 132, a bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs, and for other purposes.

S. 259

At the request of Mr. BOND, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 259, a bill to establish a grant program to provide vision care to children, and for other purposes.

S. 493

At the request of Mr. CASEY, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 493, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes.

S. 565

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 700

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 700, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 730

At the request of Mr. ENSIGN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 730, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear, and for other purposes.

S. 752

At the request of Mr. DURBIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 1102

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1102, a bill to provide benefits to domestic partners of Federal employees.

S. 1492

At the request of Ms. MIKULSKI, the names of the Senator from Illinois (Mr. BURRIS) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 1492, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 1619

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1619, a bill to establish the Office of Sustainable Housing and Communities, to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant program, to establish a sustainability challenge grant program, and for other purposes.

S. 1639

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1639, a bill to amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes.

S. 1660

At the request of Ms. KLOBUCHAR, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1660, a bill to amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.

S. 1683

At the request of Mr. BENNET, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1683, a bill to apply recaptured taxpayer investments toward reducing the national debt.

S. 1764

At the request of Mr. LAUTENBERG, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1764, a bill to clarify the application of section 14501(d) of title 19, United States Code, to prevent the imposition of unreasonable transportation fees.

S. 1789

At the request of Mr. DURBIN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1789, a bill to restore fairness to Federal cocaine sentencing.

S. 2870

At the request of Mr. INOUYE, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2870, a bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes.

S. 2975

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2975, a bill to prohibit the manufacture, sale, or distribution in commerce of children's jewelry containing cadmium, barium, or antimony, and for other purposes.

S. 3003

At the request of Mr. DODD, the name of the Senator from Indiana (Mr. BAYH)

was added as a cosponsor of S. 3003, a bill to enhance Federal efforts focused on public awareness and education about the risks and dangers associated with Shaken Baby Syndrome.

S. 3027

At the request of Ms. KLOBUCHAR, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 3027, a bill to prevent the inadvertent disclosure of information on a computer through certain ''peer-to-peer'' file sharing programs without first providing notice and obtaining consent from an owner or authorized user of the computer.

S. 3035

At the request of Mr. BAUCUS, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 3035, a bill to require a report on the establishment of a Polytrauma Rehabilitation Center or Polytrauma Network Site of the Department of Veterans Affairs in the northern Rockies or Dakotas, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3065

At the request of Mr. LIEBERMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3065, a bill to amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as ''Don't Ask, Don't Tell'', with a policy of nondiscrimination on the basis of sexual orientation.

S. 3084

At the request of Ms. KLOBUCHAR, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 3084, a bill to increase the competitiveness of United States businesses, particularly small and medium-sized manufacturing firms, in interstate and global commerce, foster job creation in the United States, and assist United States businesses in developing or expanding commercial activities in interstate and global commerce by expanding the ambit of the Hollings Manufacturing Extension Partnership program and the Technology Innovation Program to include projects that have potential for commercial exploitation in nondomestic markets, providing for an increase in related resources of the Department of Commerce, and for other purposes.

S. 3113

At the request of Mr. LEAHY, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Hawaii (Mr. AKAKA) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 3113, a bill to amend the Immigration and Nationality Act to reaffirm the United States' historic commitment to protecting refugees who are fleeing persecution or torture.

S. RES. 204

At the request of Mr. VITTER, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Res. 204, a resolution designating March 31, 2010, as ''National Congenital Diaphragmatic Hernia Awareness Day''.

S. RES. 412

At the request of Mrs. GILLIBRAND, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. Res. 412, a resolution designating September 2010 as ''National Childhood Obesity Awareness Month''.

S. RES. 447

At the request of Ms. MIKULSKI, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. Res. 447, a resolution expressing the sense of the Senate that the United States Postal Service should issue a semipostal stamp to support medical research relating to Alzheimer's disease.

S. RES. 452

At the request of Mr. JOHANNS, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Res. 452, a resolution supporting increased market access for exports of United States beef and beef products to Japan.

AMENDMENT NO. 3453

At the request of Mr. SESSIONS, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 3453 proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3456

At the request of Mr. LIEBERMAN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 3456 proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3458

At the request of Mr. VITTER, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 3458 proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3484

At the request of Mr. LAUTENBERG, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 3484 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3493

At the request of Ms. CANTWELL, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of amendment No. 3493 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3497

At the request of Mr. CARDIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment No. 3497 proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3523

At the request of Ms. CANTWELL, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of amendment No. 3523 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself and Mr. DURBIN):

S. 3120. A bill to encourage the entry of felony warrants into the National Crime Information Center database by States and provide additional resources for extradition; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I am now introducing the Fugitive Information Networked Database Act of 2010.

On December 12 of last year, the Philadelphia Inquirer began a series of articles that served as a blistering indictment of the Philadelphia criminal justice system. The Inquirer described it as ''a system that too often fails to punish violent criminals, fails to protect witnesses, fails to catch thousands of fugitives, fails to decide cases on their merits, and fails to provide justice.'' The Inquirer article 3 days later elaborated on the fugitive problem, noting that as of November 2009, there were almost 47,000 long-term fugitives at large.

The warrant situation in Philadelphia is complicated by the fact that the Philadelphia Police Department only enters into the national database a few hundred bench warrants deemed by the district attorney's office to concern extraditable offenses. Those who abscond from criminal proceedings in Philadelphia and flee to other States likely will not be captured because the information for their warrants is not automatically entered into the NCIC database.

The legislation I am introducing today, along with Senator DURBIN, builds on legislation previously entered by then-Senator BIDEN and Senator DURBIN. The proposed legislation will provide substantial Federal funding to assist the States in tracking and returning these fugitives.

Mr. President, I ask unanimous consent that the full text of my statement which I have just summarized and the

text of the bill be printed in the RECORD.

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

SENATOR SPECTER'S STATEMENT UPON INTRODUCING THE FUGITIVE INFORMATION NETWORKED DATABASE ACT OF 2010, THE FIND ACT

Mr. President, I have sought recognition to introduce the Fugitive Information Networked Database Act of 2010, the FIND Act. On December 12, 2009, the Philadelphia Inquirer began a series of articles that served as a blistering indictment of the Philadelphia criminal justice system. The Inquirer described it as ''a system that all too often fails to punish violent criminals, fails to protect witnesses, fails to catch thousands of fugitives, fails to decide cases on their merits—fails to provide justice.'' (Craig R. McCoy, Nancy Phillips, and Dylan Purcell, Justice: Delayed, Dismissed, Denied, Philadelphia Inquirer, Dec. 12, 2009). Three days later, on December 15, 2009, the Philadelphia Inquirer elaborated on the fugitive problem noting that as of November 2009, ''there were 46,801 long-term fugitives—suspects generally on the run for at least a year. The bulk of these fugitives date from this decade and the last.'' (Dylan Purcell, Craig R. McCoy, and Nancy Phillips, Violent Criminals Flout Broken Bail System, Tens of Thousands of Philadelphia Fugitives are on the Streets, Abetted by the City's Deeply Flawed Program, Philadelphia Inquirer, Dec. 15, 2009). The article reported that Philadelphia ''[f]ugitives now owe taxpayers a whopping $1 billion in forfeited bail, according to court officials who computed the figure . . .'' (Id.). Despite the obvious incentive to recapture those funds in this era of budget shortfalls, the article noted, that the ''Clerk of Quarter Sessions Office . . . has never kept a computerized list of the debtors.''

These problems warranted Senate hearings and in my capacity as the Chairman of the Judiciary Subcommittee on Crime and Drugs, I held a field hearing in Philadelphia titled, ''Exploring Federal Solutions to the State and Local Fugitive Crisis,'' on January 19, 2010. What we learned was that Philadelphia's fugitive problem, though serious in scope, is not just a local problem but is in fact a significant national problem.

Nationwide, there are an estimated 2.7 million active Federal, State, and local outstanding felony warrants. Many of these fugitives commit additional crimes. Every day large numbers of fugitives evade capture because state and local law enforcement authorities have insufficient resources to find and arrest them. And even if found, state and local law enforcement authorities often do not have the funds to pay for the fugitive's extradition to face trial. Shockingly, many fugitives are released without prosecution.

The nationwide database operated by the FBI's National Crime Information Center (''NCIC'') is missing over half of the country's 2.7 million felony warrants, including warrants for hundreds of thousands of violent crimes. Fugitives who have fled to another state will not be caught—even if they are stopped and questioned by the police on a routine traffic stop—because their warrants have not been entered into the NCIC database.

In early 2008, the St. Louis Post Dispatch published a series of articles—affirmed by the Department of Justice documenting law enforcement's widespread failure to find and arrest fugitives. For purposes of the series, ''fugitive'' included un-arrested suspects with pending warrants that law enforcement cannot find, and those who cannot be found after violating the rules of their pre-trial detention, probation, or parole. The articles revealed that the reach of this national problem is extensive and cited federal estimates from two years ago that as many as an estimated 800,000 to 1.6 million outstanding state or local warrants are inaccessible to law enforcement outside the state or locality in which they were issued because the information about the warrants had not been entered into the NCIC database.

In Philadelphia, while all warrants, including bench warrants, are entered into a state database, only a small fraction of these warrants is entered into the NCIC database. The Philadelphia Police Department only enters into the NCIC database a few hundred bench warrants deemed by the District Attorney's Office to concern extraditable offenses and surprisingly the Police Departments makes these entries manually and not by automatic computer transfers. Thus, those who abscond from criminal proceedings in Philadelphia and flee to other states likely will not be captured because information from their warrants is not automatically entered into the NCIC database.

Last Congress, on June 16, 2008, then-Senator Biden introduced the FIND Act (S. 3136), that sought to address similar problems. At the time, Senator Biden said, ''Too often, State and local law enforcement agencies enter warrants into the State and local databases, but not into the national database.'' His statement was prescient then and is still true now. By September 2008, Senator Biden had been joined by Senators Clinton and Durbin as cosponsors and the bill had passed the Judiciary Committee.

Today I take up Vice President Biden's mantle and, along with Senator Durbin, introduce the ''Fugitive Information Networked Database Act of 2010,'' the FIND Act. This bill directs the Attorney General to make a total of $10 million in grants each fiscal year 2011 through 2015 to states and Indian tribes for use in developing and implementing or upgrading secure electronic warrant management systems for the preparation, submission, and validation of state felony warrants that are interoperable with the NCIC database. A portion of these grant funds can be used to hire additional personnel to validate warrants entered into the NCIC database. The bill also directs the Attorney General to make a total of $30 million in grants each fiscal year 2011 to 2015 to states and Indian tribes for extraditing fugitives for prosecution and encourages their participation in the U.S. Marshal's Justice Prisoner and Alien Transportation Service (''JPATS'') program. The bill directs the Comptroller General to submit a statistical report to the House and Senate Judiciary Committees on felony warrants issued by state, local, and tribal governments and entered into the NCIC database and on the apprehension and extradition of persons with active felony warrants.

Finally, in an enhancement of the prior FIND Act, this new bill requires any state seeking a grant renewal to file public reports with the Attorney General and within its own county clerk's offices indicating (i) the number of defendants assessed or interviewed for pretrial release; (ii) the number of indigent defendants included in (i); (iii) the total number of failures to appear for all defendants released; and (iv) the number and type of infractions committed by defendants while on pretrial release.

I urge my colleagues to support this important legislation which is designed to facilitate state and local data entry into the NCIC database through grants, increase the extradition of fugitives travelling in interstate commerce and to ascertain whether our pretrial release programs are operating effectively. The fugitive problem is national in scope, involves individuals travelling in interstate commerce, and requires federal solutions. By enacting this bill, we take an important first step.

S. 3120

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 ''Fugitive Information Networked Database Act of 2010'' or the ''FIND Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Nationwide, there are an estimated 2,700,000 active Federal, State, and local warrants for the arrest of persons charged with felony crimes.

(2) State and local law enforcement authorities have insufficient resources to devote to searching for and apprehending fugitives. As a result, large numbers of fugitives evade arrest. State and local law enforcement authorities also lack resources for extraditing fugitives who have been arrested in other States. As a result, such fugitives frequently are released without prosecution.

(3) Increasing the resources available for conducting fugitive investigations and transporting fugitives between States would increase the number of fugitives who are arrested and prosecuted.

(4) The United States Marshals Service (referred to in this Act as the ''USMS'') plays an integral role in the apprehension of fugitives in the United States, and has a long history of providing assistance and expertise to Federal, State, and local law enforcement agencies in support of fugitive investigations, including through 82 District Task Forces, and through the 7 Regional Fugitive Task Force Programs that have partnered with Federal, State and local law enforcement agencies to locate and apprehend fugitives.

(5) The USMS utilizes the Justice Prisoner and Alien Transportation Service (referred to in this Act as the ''JPATS'') to transport Federal detainees and prisoners. It also makes JPATS available to State and local law enforcement agencies on a reimbursable, space-available basis for the purpose of transporting a fugitive from the place where the fugitive was arrested to the jurisdiction

that issued the warrant for the arrest of the fugitive. Through JPATS, these agencies are able to reduce the cost of extradition significantly.

(6) Expanding the availability of JPATS to State and local law enforcement agencies would lower the cost of transporting fugitives for extradition and lead to the prosecution of a greater number of fugitives.

(7) Since 1967, the Federal Bureau of Investigation has operated the National Crime Information Center, which administers a nationwide database containing criminal history information from the Federal Government and the States, including outstanding arrest warrants. The National Crime Information Center database allows a law enforcement officer who stops a person in 1 State to obtain information about a warrant for that person issued in another State. It contains approximately 1,700,000 felony and misdemeanor warrants. It is missing nearly half of the 2,800,000 to 3,200,000 of the felony warrants issued across the Nation, including warrants for hundreds of thousands of violent crimes.

(8) The failure of a State to enter a warrant into the National Crime Information Center database enables a fugitive to escape arrest even when the fugitive is stopped by a law enforcement officer in another State, because the officer is not aware there was a warrant issued for the fugitive. Many of such fugitives go on to commit additional crimes. In addition, such fugitives pose a danger to law enforcement officers who encounter them without knowledge of the pending charges against the fugitives or their record of fleeing law enforcement authorities.

(9) All warrants entered into the National Crime Information Center database must be validated on a regular basis to ensure that the information in the warrant is still accurate and that the warrant is still active.

(10) Improving the entry and validation of warrants in the National Crime Information Center database would enable law enforcement officers to identify and arrest a larger number of fugitives, improve the safety of these officers, and better protect communities from crime.

(11) Federal funds for State and local law enforcement are most effective when they do not supplant, but rather supplement State and local funds.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACTIVE WARRANT.—The term ''active warrant'' means a warrant that has not been cleared. A warrant may be cleared by arrest or by the determination of a law enforcement agency that a warrant has already been executed or that the subject is deceased.

(2) FELONY WARRANT.—The term ''felony warrant'' means any warrant for a crime that is punishable by a term of imprisonment exceeding 1 year.

(3) INDIAN COUNTRY.—The term ''Indian country'' has the meaning given the term in section 1151 of title 18, United States Code.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

(5) NATIONAL CRIME INFORMATION CENTER DATABASE.—The term ''National Crime Information Center database'' means the computerized index of criminal justice information operated by the Federal Bureau of Investigation under section 534 of title 28, United States Code, and available to Federal, State, and local law enforcement and other criminal justice agencies.

(6) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(7) UNIT OF LOCAL GOVERNMENT.—The term ''unit of local government''—

(A) means—

(i) any city, county, township, borough, parish, village, or other general purpose political subdivision of a State; or

(ii) any law enforcement district or judicial enforcement district that is established under applicable State law and has the authority to, in a manner independent of other State entities, establish a budget and impose taxes;

(B) includes law enforcement agencies, courts, and any other government agencies involved in the issuance of warrants; and

(C) in the case of Indian tribes, includes tribal law enforcement agencies, tribal courts and any other tribal agencies involved in the issuance of warrants.

SEC. 4. GRANTS TO ENCOURAGE STATES TO ENTER FELONY WARRANTS.

(a) AUTHORIZATION OF GRANTS.—

(1) IN GENERAL.—The Attorney General shall make grants to States or Indian tribes in a manner consistent with the National Criminal History Improvement Program, which shall be used by States or Indian tribes, in conjunction with units of local government, to—

(A)(i) develop and implement secure, electronic State, local or tribal warrant management systems that permit the prompt preparation, submission, and validation of warrants and are compatible and interoperable with the National Crime Information Center database to facilitate information sharing and to ensure that felony warrants entered into warrant databases by State, local and tribal government agencies can be automatically entered into the National Crime Information Center database; or

(ii) upgrade existing State, local or tribal electronic warrant management systems to ensure compatibility and interoperability with the National Crime Information Center database to facilitate information sharing and to ensure that felony warrants entered into warrant databases by State, local and tribal government agencies can be automatically entered into the National Crime Information Center database; and

(B) ensure that all State, local, and tribal government agencies that need access to the National Crime Information Center database for criminal justice purposes can access the database.

(2) DURATION.—A grant awarded under this section shall be—

(A) for a period of 1 year; and

(B) renewable at the discretion of the Attorney General if the State seeking renewal submits an application to the Attorney General that demonstrates compliance with subsection (b)(2).

(3) HIRING OF PERSONNEL.—Not more than 5 percent of the grant funds awarded under this section to each State and Indian tribe may also be used to hire additional personnel, as needed, to validate warrants entered into the National Crime Information Center database.

(4) SET-ASIDE.—Not more than 5 percent of the total funds available to be awarded under this section may be reserved for Indian tribes.

(b) ELIGIBILITY.—

(1) IN GENERAL.—In order to be eligible for a grant authorized under subsection (a), a State or Indian tribe shall submit to the Attorney General—

(A) a plan to develop and implement, or upgrade, systems described in subsection (a)(1);

(B) a report that—

(i) details the number of active felony warrants issued by the State or Indian tribe, including felony warrants issued by units of local government within the State or Indian tribe;

(ii) describes the number and type of active felony warrants that have not been entered into a State, local, or tribal warrant database or into the National Crime Information Center database;

(iii) explains the reasons State, local, and tribal government agencies have not entered active felony warrants into the National Crime Information Center database; and

(iv) demonstrates that State, local, and tribal government agencies have made good faith efforts to eliminate any such backlog; and

(C) guidelines for warrant entry by the State or Indian tribe, including units of local government within the State or Indian tribe, that—

(i) ensure that felony warrants issued by the State or Indian tribe, including units of local government within the State or Indian tribe, will be entered into the National Crime Information Center database; and

(ii) include a description of the circumstances, if any, in which, as a matter of policy, certain such warrants will not be entered into the National Crime Information Center database.

(2) DEPOSIT BAIL AND CITIZENS RIGHT TO KNOW.—A State that submits a grant renewal application under subsection (a)(3)(B) shall require that each unit of local government or State pretrial services agency in such State that has recieved grant funds under this section file with the Attorney General and the appropriate county clerk's office of jurisdiction the following public reports on defendants released at the recommendation or under the supervision of the unit of local government or State pretrial services agency:

(A) An annual report specifying—

(i) the number of defendants assessed or interviewed for pretrial release;

(ii) the number of indigent defendants included in clause (i);

(iii) the number of failures to appear for a scheduled court appearance; and

(iv) the number and type of program noncompliance infractions committed by a defendant released to a pretrial release program.

(B) An annual report at the end of each year, setting forth the budget of the unit of local government or State pretrial services agency for the reporting year.

(c) REPORT TO THE ATTORNEY GENERAL.—A State or Indian tribe that receives a grant under this section shall, 1 year after receiving the grant, submit a report to the Attorney General that includes—

(1) the number of active felony warrants issued by that State or Indian tribe, including units of local government within that State or Indian tribe;

(2) the number of the active felony warrants entered into the National Crime Information Center database; and

(3) with respect to felony warrants not entered into the National Crime Information Center database, the reasons for not entering such warrants.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $10,000,000 for each of the fiscal years 2011 through 2015 for grants to carry out the requirements of this section.

SEC. 5. FEDERAL BUREAU OF INVESTIGATION COORDINATION.

The Federal Bureau of Investigation shall provide to State, local, and tribal government agencies the technological standard to ensure the compatibility and interoperability of all State, local, and tribal warrant

databases with the National Crime Information Center database, as well as other technical assistance to facilitate the implementation of automated State, local, and tribal warrant management systems that are compatible and interoperable with the National Crime Information Center database.

SEC. 6. REPORT REGARDING FELONY WARRANT ENTRY.

(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the House and Senate Committees on the Judiciary a report regarding—

(1) the number of active felony warrants issued by each State and Indian tribe, including felony warrants issued by units of local government within the State or Indian tribe;

(2) the number of the active felony warrants that State, local, and tribal government agencies have entered into the National Crime Information Center database; and

(3) for the preceding 3 years, the number of persons in each State with an active felony warrant who were—

(A) apprehended in other States or in Indian Country but not extradited; and

(B) apprehended in other States or in Indian Country and extradited.

(b) ASSISTANCE.—To assist in the preparation of the report required by subsection (a), the Attorney General shall provide the Comptroller General of the United States access to any information collected and reviewed in connection with the grant application process described in section 4.

(c) REPORT BY ATTORNEY GENERAL.—On an annual basis, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report containing the information received from the States and Indian tribes under this section.

SEC. 7. EXTRADITION ASSISTANCE.

(a) GRANT ASSISTANCE.—

(1) AUTHORIZATION OF GRANT ASSISTANCE.—

(A) IN GENERAL.—The Attorney General shall, subject to paragraph (4), make grants to States and Indian tribes for periods of 1 year which shall be used by States and Indian tribes, including units of local government within the State or Indian tribe, to extradite fugitives from another State or Indian country for prosecution.

(B) SET ASIDE.—Not more than 5 percent of the grant funding available under this section may be reserved for Indian tribal governments, including tribal judicial systems.

(2) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 80 percent of the costs of a program or proposal funded under this section unless the Attorney General waives, wholly or in part, the requirements of this paragraph in the event of extraordinary circumstances.

(3) GRANT APPLICATIONS.—A State or Indian tribe seeking a grant under this subsection shall submit an application to the Attorney General that—

(A) describes the process and any impediments to extraditing fugitives apprehended in other States or in Indian Country after being notified of such fugitives' apprehension;

(B) specifies the way in which grant amounts will be used, including the means of transportation the State or Indian tribe, or unit of local government within the State or Indian tribe, intends to use for extradition and whether the State or Indian tribe or unit of local government will participate in the JPATS program, as well as whether it has participated in that program in the past;

(C) specifies the number of fugitives extradited by all jurisdictions within that State or Indian tribe for each of the 3 years preceding the date of the grant application; and

(D) specifies the total amount spent by all jurisdictions within that State or Indian tribe on fugitive extraditions for each of the 3 years preceding the date of the grant application.

(4) ELIGIBILITY.—

(A) IN GENERAL.—In determining whether to award a grant under this section to a State or Indian tribe, the Attorney General shall consider the following:

(i) The information in the application submitted under paragraph (3).

(ii) The percentage of felony warrants issued by the State or Indian tribe, including units of local government within the State or Indian tribe, that were entered into the National Crime Information Center database, as calculated with the information provided under subsection (b) and, beginning 1 year after the date of enactment of this Act, whether the State or Indian tribe has made substantial progress in improving the entry of felony warrants into the National Crime Information Center database.

(iii) For grants issued after an initial 1 year grant, whether the State or Indian tribe, including units of local government within the State or Indian tribe, has increased substantially the number of fugitives extradited for prosecution.

(B) PREFERENCES.—In allocating extradition grants under this section, the Attorney General should give preference to States or Indian tribes that—

(i) 3 years after the date of enactment of this Act, have entered at least 50 percent of active felony warrants into the National Crime Information Center database;

(ii) 5 years after the date of enactment of this Act, have entered at least 70 percent of active felony warrants into the National Crime Information Center database; and

(iii) 7 years after the date of enactment of this Act, have entered at least 90 percent of active felony warrants into the National Crime Information Center database.

(5) USE OF FUNDS.—States and Indian tribes, including units of local government within the State or Indian tribe, receiving a grant under this section may use grant monies to credit the costs of transporting State and local detainees on behalf of such State to the Justice Prisoner and Alien Transportation System.

(6) RECORD KEEPING.—States and Indian tribes, including units of local government within the State or Indian tribe, that receive a grant under this section shall maintain and report such data, records, and information (programmatic and financial) as the Attorney General may require.

(7) AUDIT.—

(A) IN GENERAL.—The Attorney General shall conduct an audit of the use of funds by States and Indian tribes receiving grants under this section 18 months after the date of the enactment of this Act and biennially thereafter.

(B) INELIGIBILITY.—A State or Indian tribe, or unit of local government within a State or Indian tribe, that fails to increase substantially the number of fugitives extradited after receiving a grant under this section will be ineligible for future funds.

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2011 through 2015.

(b) ACTIVE FELONY WARRANTS ISSUED BY STATES AND INDIAN TRIBES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter on a date designated by the Attorney General, to assist the Attorney General in making a determination under subsection (a)(4) concerning eligibility to receive a grant, each State and Indian tribe applying for a grant under this section shall submit to the Attorney General—

(A) the total number of active felony warrants issued by the State or Indian tribe, including units of local government within the State or Indian tribe, regardless of the age of the warrants; and

(B) a description of the categories of felony warrants not entered into the National Crime Information Center database and the reasons for not entering such warrants.

(2) FAILURE TO PROVIDE.—A State or Indian tribe that fails to provide the information described in paragraph (1) by the date required under such paragraph shall be ineligible to receive any funds under subsection (a), until such date as it provides the information described in paragraph (1) to the Attorney General.

(c) ATTORNEY GENERAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report—

(A) containing the information submitted by the States and Indian tribes under subsection (b);

(B) containing the percentage of active felony warrants issued by those States and Indian tribes that has been entered into the National Crime Information Center database, as determined under subsection (a)(4)(A)(ii);

(C) containing a description of the categories of felony warrants that have not been entered into the National Crime Information Center database and the reasons such warrants were not entered, as provided to the Attorney General under subsection (b)(1);

(D) comparing the warrant entry information to data from previous years and describing the progress of States and Indian tribes in entering active felony warrants into the National Crime Information Center database;

(E) containing the number of persons that each State or Indian tribe, including units of local government within the State or Indian tribe, has extradited from other States or in Indian country for prosecution and describing any progress the State or Indian tribe has made in improving the number of fugitives extradited for prosecution; and

(F) describing the practices of the States and Indian tribes regarding the collection, maintenance, automation, and transmittal of felony warrants to the National Crime Information Center, that the Attorney General considers to be best practices.

(2) BEST PRACTICES.—Not later than January 31 of each year, the Attorney General shall provide the information regarding best practices, referred to in paragraph (1)(F), to each State and Indian tribe submitting information to the National Crime Information Center.

By Mr. LEAHY (for himself, Mr. SPECTER, Mr. HARKIN, Mr. BENNET, Mrs. SHAHEEN, Mr. CASEY, Ms. KLOBUCHAR, Mrs. GILLIBRAND, Mr. BROWN of Ohio, Mr. UDALL of New Mexico, Mr. DURBIN, Mrs. MURRAY, Mr. SCHUMER, and Mr. SANDERS):

S. 3123. A bill to amend the Richard B. Russell National School Lunch Act to require the Secretary of Agriculture to carry out a program to assist eligible schools and nonprofit entities

through grants and technical assistance to implement farm to school programs that improve access to local foods in eligible schools; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEAHY. Mr. President, I rise today to introduce my Growing Farm to School Programs Act of 2010. This important proposal will support grassroots efforts all across our Nation to improve the health and well-being of children while supporting local farmers and bolstering local economies.

I am pleased to have 13 of my respected Senate colleagues from across the country join with me today as original cosponsors of this bill. Farm to School is a proven, common-sense, community-driven approach to incorporate farm fresh local food into school meals. Schools nationwide understand the many benefits of farm to school but often lack the startup funding and the technical capacity to plan and implement the program. This bill will provide the important seed money and technical assistance needed to enable our schools to teach children about good nutrition and show them the importance of agriculture while also supporting local farms.

It is amazing how far some farm products travel to get to our school cafeterias, and how heavily processed it is when it arrives. While our Nation's schools should provide an enormous market for our struggling small and mid-sized farmers, for far too long the products grown by our family farms have largely been absent from school lunch trays. We should not be surprised that many kids today do not understand the link between the food they eat and farms on which it is raised. By offering our children local, fresh, less-processed choices, and a chance to learn how and where their food is grown we can also provide economic benefits for small, local farms and keep food dollars within the community.

Communities and schools all across our Nation are beginning to link farms and school with great success. In my home State of Vermont, from rural towns across the state to the city of Burlington, many of our schools have integrated school meals with classroom learning and local agriculture. As more schools create these important connections, neighboring communities are often also eager to start similar programs. Unfortunately many of these schools do not have sufficient staff, expertise, equipment, or funding to start a Farm to School program on their own. The Growing Farm to Schools Programs Act will provide the small amount of funding and technical assistance that these schools need to create a program. Once in place, these programs can be expected to be self-sustaining.

In introducing the Growing Farm to School Programs Act of 2010, I am hoping that we will be able to provide more communities, schools, and farmers the opportunity to grow and cultivate Farm to School programs. I thank my 13 co-sponsors and urge my other colleagues to join us in support of this exciting initiative.

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. 3123

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 ''Growing Farm to School Programs Act of 2010''.

SEC. 2. ACCESS TO LOCAL FOODS: FARM TO SCHOOL PROGRAM.

Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively;

(2) in subsection (g), by striking ''(g) ACCESS TO LOCAL FOODS AND SCHOOL GARDENS.—'' and all that follows through ''(3) PILOT PROGRAM FOR HIGH-POVERTY SCHOOLS.— '' and inserting the following:

''(g) ACCESS TO LOCAL FOODS: FARM TO SCHOOL PROGRAM.—

''(1) DEFINITION OF ELIGIBLE SCHOOL.—In this subsection, the term 'eligible school' means a school or institution that participates in a program under this Act or the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

''(2) PROGRAM.—The Secretary shall carry out a program to assist eligible schools, State and local agencies, Indian tribal organizations, agricultural producers or groups of agricultural producers, and nonprofit entities through grants and technical assistance to implement farm to school programs that improve access to local foods in eligible schools.

''(3) GRANTS.—

''(A) IN GENERAL.—The Secretary shall award competitive grants under this subsection to be used for—

''(i) training;

''(ii) supporting operations;

''(iii) planning;

''(iv) purchasing equipment;

''(v) developing school gardens;

''(vi) developing partnerships; and

''(vii) implementing farm to school programs.

''(B) REGIONAL BALANCE.—In making awards under this subsection, the Secretary shall, to the maximum extent practicable, ensure—

''(i) geographical diversity; and

''(ii) equitable treatment of urban, rural, and tribal communities.

''(C) MAXIMUM AMOUNT.—The total amount provided to a grant recipient under this subsection shall not exceed $100,000.

''(4) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of costs for a project funded through a grant awarded under this subsection shall not exceed 75 percent of the total cost of the project.

''(B) FEDERAL MATCHING.—As a condition of receiving a grant under this subsection, a grant recipient shall provide matching support in the form of cash or in-kind contributions, including facilities, equipment, or services provided by State and local governments, nonprofit organizations, and private sources.

''(5) CRITERIA FOR SELECTION.—To the maximum extent practicable, in providing assistance under this subsection, the Secretary shall give the highest priority to funding projects that, as determined by the Secretary—

''(A) benefit local small- and medium-sized farms;

''(B) make local food products available on the menu of the eligible school;

''(C) serve a high proportion of children who are eligible for free or reduced price lunches;

''(D) incorporate experiential nutrition education activities in curriculum planning that encourage the participation of school children in farm and garden-based agricultural education activities;

''(E) demonstrate collaboration between eligible schools, nongovernmental and community-based organizations, agricultural producer groups, and other community partners;

''(F) include adequate and participatory evaluation plans;

''(G) demonstrate the potential for long-term program sustainability; and

''(H) meet any other criteria that the Secretary determines appropriate.

''(6) EVALUATION.—As a condition of receiving a grant under this subsection, each grant recipient shall agree to cooperate in an evaluation by the Secretary of the program carried out using grant funds.

''(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and information to assist eligible schools, State and local agencies, Indian tribal organizations, and nonprofit entities—

''(A) to facilitate the coordination and sharing of information and resources in the Department that may be applicable to the farm to school program;

''(B) to collect and share information on best practices; and

''(C) to disseminate research and data on existing farm to school programs and the potential for programs in underserved areas.

''(8) FUNDING.—

''(A) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $50,000,000, to remain available until expended.

''(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

''(h) PILOT PROGRAM FOR HIGH-POVERTY SCHOOLS.—

''(1) IN GENERAL.—''; and

(3) in subsection (h) (as redesignated by paragraph (2))—

(A) in subparagraph (F) of paragraph (1) (as so redesignated), by striking ''in accordance with paragraph (1)(H)'' and inserting ''carried out by the Secretary''; and

(B) by redesignating paragraph (4) as paragraph (2).

SEC. 3. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 456—CONGRATULATING RADFORD UNIVERSITY ON THE 100TH ANNIVERSARY OF THE UNIVERSITY

Mr. WEBB (for himself and Mr. WARNER) submitted the following resolution; which was considered and agreed to:

S. RES. 456

Whereas Radford University was chartered on March 10, 1910, by the Commonwealth of Virginia as the State Normal and Industrial School for Women at Radford;

Whereas Radford University was chartered to prepare teachers to educate the people of the United States;

Whereas Radford University has grown substantially in scope and quality since the day on which the university was chartered;

Whereas Radford University was renamed the Radford State Teachers College in 1924 and the Women's Division of Virginia Polytechnic Institute in 1944, respectively;

Whereas Radford University was renamed Radford College in 1964 when the relationship between the Virginia Polytechnic Institute and Radford University ended;

Whereas Radford College was renamed Radford University in 1979;

Whereas, since the founding of the university, Radford University has provided thousands of students with the benefits of a Radford education;

Whereas Radford University graduates have made meaningful and lasting contributions to society through service, including service in—

(1) education;
(2) the sciences;
(3) business;
(4) health and human services;
(5) government;
(6) the arts and humanities; and
(7) other endeavors;

Whereas Radford University is a productive and vital academic community with thousands of students;

Whereas the students of Radford University approach university life with an enthusiasm for learning and personal development;

Whereas the brilliant faculty of Radford University is committed to the highest ideals of academic scholarship and the advancement of society;

Whereas the devoted administrators and staff members of Radford University strive to foster an environment that supports the noble work of the university;

Whereas the centennial of Radford University is an appropriate time for faculty, staff, students, alumni, and friends—

(1) to unite in recognition of the past achievements Radford University with pride; and

(2) to consider ways to create an even more successful university during the century ahead;

Whereas Radford University celebrates the culture of service of the university through a program entitled ''Centennial Service Challenge'' that invites every member of the campus and extended university community to engage in, and document community service in honor of, the centennial; and

Whereas Radford University will observe a Centennial Charter Day Celebration on March 24, 2010, and host numerous other academic programs and arts and cultural events throughout 2010 to commemorate the event: Now, therefore, be it

Resolved, That the Senate commends Radford University on the 100th anniversary of the university.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3524. Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 3512 submitted by Ms. CANTWELL and intended to be proposed to the amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table.

SA 3525. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3526. Mr. BROWN, of Ohio submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3527. Mr. MCCAIN proposed an amendment to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra.

SA 3528. Mr. MCCAIN (for himself, Mr. REID, Mr. KYL, and Mr. ENSIGN) proposed an amendment to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra.

SA 3529. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3530. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3531. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra.

SA 3532. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3533. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3534. Mr. WYDEN (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3535. Mr. BEGICH submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3536. Mr. BEGICH submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3537. Mr. BROWN, of Ohio (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3538. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3539. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3540. Mr. WHITEHOUSE proposed an amendment to the bill S. 1782, to provide improvements for the operations of the Federal courts, and for other purposes.

SA 3541. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3524. Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 3512 submitted by Ms. CANTWELL and intended to be proposed to the amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 7___. PROMOTION OF JOB CREATION AND TOURISM IN GATEWAY COMMUNITIES AND NATIONAL PARKS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

(2) GATEWAY COMMUNITY.—The term ''gateway community'' means a community near or within a unit of the national park system that facilitates visitation, tourism, promotion, and conservation of the park.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(b) STUDY OF PROMOTION OF JOB CREATION AND TOURISM IN GATEWAY COMMUNITIES .—

(1) IN GENERAL.—The Secretary shall conduct a study of job creation and tourism promoted by the National Park Service in gateway communities, including job creation and tourism through—

(A) hunting and shooting sports;
(B) motorized recreation;
(C) search and rescue operations;
(D) security;
(E) highways; and
(F) aviation.

(2) TECHNICAL ASSISTANCE.—If the Secretary identifies aviation or aircraft as 1 of the sources of job creation and tourism promotion in the study, the Administrator shall provide technical assistance to the Secretary to carry out the study with respect to aviation or aircraft, respectively.

(c) STUDY OF NATIONAL PARK SERVICE METHODS OF PROMOTING JOB CREATION AND TOURISM IN GATEWAY COMMUNITIES.—The Secretary, in coordination with the Administrator, shall conduct a study of National Park Service methods of promoting job creation and tourism in gateway communities, including job creation and tourism through—

(1) hunting and shooting sports;
(2) motorized recreation;
(3) search and rescue operations;
(4) security;
(5) highways; and
(6) aviation.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) describes the results of the studies conducted under subsections (b) and (c); and

(2) includes any recommendations that the Secretary determines to be appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3525. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

Beginning on page 71, strike line 8 and all that follows through line 8 on page 74, and insert the following:

(a) OPERATION EVALUATION PARTNERSHIP AIRPORT PROCEDURES.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, aircraft manufacturers, and third parties that have received letters of qualification from the Federal Aviation Administration to design and validate required navigation performance flight paths for public use (in this section referred to as ''qualified third parties''), that includes the following:

(A) RNP/RNAV OPERATIONS.—With respect to area navigation and required navigation performance operations, the following:

(i) Which of the 35 Operational Evolution Partnership airports identified by the Federal Aviation Administration would benefit from implementation of area navigation procedures alone and which would benefit from implementation of both area navigation and required navigation performance procedures.

(ii) The required navigation performance and area navigation operations, including procedures to be developed, certified, and published, necessary to maximize the efficiency and capacity of NextGen commercial operations at each of those airports.

(iii) The air traffic control operational changes, which connect the terminal environment and en route airspace, necessary to maximize the efficiency and capacity of NextGen commercial operations at each of those airports.

(iv) The number of potential required navigation performance procedures at each of those airports.

(v) Of the number of required navigation performance procedures identified under clause (iv) for an airport—

(I) the number of such procedures that would be an overlay of an existing instrument flight procedure and supporting analysis;

(II) the number of such procedures that would enable greater use of continuous descent arrivals; and

(III) an assessment of the priority for implementation of each such procedure.

(vi) The timeline for the Federal Aviation Administration to certify required navigation performance as a precision approach.

(B) COORDINATION AND IMPLEMENTATION ACTIVITIES.—With respect to the coordination and implementation of required navigation performance procedures, the following:

(i) A description of the activities and operational changes and approvals required from the Federal Aviation Administration to coordinate and utilize required navigation performance procedures at the 35 Operational Evolution Partnership airports identified by the Federal Aviation Administration.

(ii) A description of the software and database information, such as a current version of the Noise Integrated Routing System or the Integrated Noise Model, that the Administration will need to make available to qualified third parties to enable those third parties to design procedures that will meet the broad range of requirements of the Administration.

(C) IMPLEMENTATION PLAN.—A plan for implementing the required navigation performance procedures identified under subparagraph (A) that establishes—

(i) a clearly defined budget, schedule, project organization, and leadership requirements;

(ii) specific steps for implementation and transition;

(iii) coordination and communications mechanisms with qualified third parties;

(iv) specific procedures for engaging the appropriate Administration employee groups to ensure that human factors, training, and other issues surrounding the adoption of required navigation performance procedures in the en route and terminal environments are addressed;

(v) a plan for lifecycle management of required navigation performance procedures—

(I) developed by the Administration; and

(II) developed by qualified third parties;

(vi) an expedited validation process that allows an air carrier using a required navigation performance procedure validated by the Administration at an airport for a specific model of aircraft to transfer all of the information associated with the use of that procedure to another air carrier for use at the same airport for the same model of aircraft; and

(vii) baseline and performance metrics for measuring the Administration's progress in implementing the plan, including the percentage utilization of required navigation performance in the National Airspace System.

(D) INTERNAL RESOURCE ANALYSIS.—An assessment of the internal capabilities of the Federal Aviation Administration with respect to designing and validating required navigation performance procedures, including—

(i) the number of staff working either full or part time on designing required navigation performance procedures;

(ii) the number of available staff that can be trained to design required navigation performance procedures, the training required, and the length of that training; and

(iii) the number of staff designing and validating required navigation performance procedures that are full-time employees and the number employed through term appointments.

(E) COST/BENEFIT ANALYSIS FOR THIRD-PARTY USAGE.—An assessment of the costs and benefits of using third parties to assist in the development of required navigation performance procedures.

(F) ADDITIONAL PROCEDURES.—A process for the identification, certification, and publication of additional or modified required navigation performance and area navigation procedures that may be required at the 35 Operational Evolution Partnership airports identified by the Federal Aviation Administration in the future.

(2) IMPLEMENTATION SCHEDULE.—The Administrator shall certify, publish, and implement—

(A) 30 percent of the required navigation performance procedures identified under paragraph (1)(A) within 18 months after the date of the enactment of this Act;

(B) 60 percent of such procedures within 36 months after the date of the enactment of this Act; and

(C) 100 percent of such procedures before January 1, 2014.

(b) EXPANSION OF PLAN TO OTHER AIRPORTS.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, and qualified third parties, that includes a plan for applying the procedures, requirements, criteria, and metrics described in subsection (a)(1) to other airports across the United States.

(2) SURVEYING OBSTACLES SURROUNDING REGIONAL AIRPORTS.—Not later than 1 year after the date of the enactment of this Act, the Administrator, in consultation with the Secretary of State and the Secretary of Transportation, shall identify options and possible funding mechanisms for surveying obstacles in the areas around regional airports that can be used as an input to future required navigation performance procedures.

(3) IMPLEMENTATION SCHEDULE.—The Administrator shall certify, publish, and implement—

(A) 25 percent of the required navigation performance procedures included in the plan required by paragraph (1) at such other airports before January 1, 2015;

(B) 50 percent of such procedures at such other airports before January 1, 2016;

(C) 75 percent of such procedures at such other airports before January 1, 2017; and

(D) 100 percent of such procedures before January 1, 2018.

SA 3526. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 86, strike lines 4 through 8, and insert the following:

(b) TEST SITE CRITERIA.—In determining where the test sites to be established under the pilot project required by subsection (a)(1) are to be located, the Administrator shall—

(1) take into consideration geographical and climate diversity; and

(2) select one such site, subject to approval by the Secretary of the Air Force, that is located in proximity to principal Air Force research and acquisition functions to take advantage of Air Force instrumented radars and related research equipment and current defense science, research, and development activities in unmanned aerial systems.

SA 3527. Mr. MCCAIN proposed an amendment to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; as follows:

On page 84, between lines 21 and 22, insert the following:

SEC. 319. REPORT ON FUNDING FOR NEXTGEN TECHNOLOGY.

Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to Congress a report that contains—

(1) a financing proposal that—

(A) uses innovative methods to fully fund the development and implementation of technology for the Next Generation Air Transportation System in a manner that does not increase the Federal deficit; and

(B) takes into consideration opportunities for involvement by public-private partnerships; and

(2) recommendations with respect to how the Administrator and Congress can provide operational benefits, such as benefits relating to preferred airspace, routings, or runway access, for air carriers that equip their aircraft with technology necessary for the operation of the Next Generation Air Transportation System before the date by which the Administrator requires the use of such technology.

SA 3528. Mr. MCCAIN (for himself, Mr. REID, Mr. KYL, and Mr. ENSIGN) proposed an amendment to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 723. OVERFLIGHTS IN GRAND CANYON NATIONAL PARK.

(a) DETERMINATIONS WITH RESPECT TO SUBSTANTIAL RESTORATION OF NATURAL QUIET AND EXPERIENCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for purposes of section 3(b)(1) of Public Law 100–91 (16 U.S.C. 1a–1 note), the substantial restoration of the natural quiet and experience of the Grand Canyon National Park (in this subsection referred to as the ''Park'') shall be considered to be achieved in the Park if, for at least 75 percent of each day, 50 percent of the Park is free of sound produced by commercial air tour operations that have an allocation to conduct commercial air tours in the Park as of the date of the enactment of this Act.

(2) CONSIDERATIONS.—

(A) IN GENERAL.—For purposes of determining whether substantial restoration of the natural quiet and experience of the Park has been achieved in accordance with paragraph (1), the Secretary of the Interior (in this section referred to as the ''Secretary'') shall use—

(i) the 2–zone system for the Park in effect on the date of the enactment of this Act to assess impacts relating to subsectional restoration of natural quiet at the Park, including—

(I) the thresholds for noticeability and audibility; and

(II) the distribution of land between the 2 zones; and

(ii) noise modeling science that is—

(I) developed for use at the Park, specifically Integrated Noise Model Version 6.2;

(II) validated by reasonable standards for conducting field observations of model results; and

(III) accepted and validated by the Federal Interagency Committee on Aviation Noise.

(B) SOUND FROM OTHER SOURCES.—The Secretary shall not consider sound produced by sources other than commercial air tour operations, including sound emitted by other types of aircraft operations or other noise sources, for purposes of—

(i) making recommendations, developing a final plan, or issuing regulations relating to commercial air tour operations in the Park; or

(ii) determining under paragraph (1) whether substantial restoration of the natural quiet and experience of the Park has been achieved.

(3) CONTINUED MONITORING.—The Secretary shall continue monitoring noise from aircraft operating over the Park below 17,999 feet MSL to ensure continued compliance with the substantial restoration of natural quiet and experience in the Park.

(4) DAY DEFINED.—For purposes of this subsection, the term ''day'' means the hours between 7:00 a.m. and 7:00 p.m.

(b) REGULATION OF COMMERCIAL AIR TOUR OPERATIONS.—Commercial air tour operations over the Grand Canyon National Park Special Flight Rules Area shall continue to be conducted in accordance with subpart U of part 93 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act), except as follows:

(1) CURFEWS FOR COMMERCIAL FLIGHTS.—The hours for the curfew under section 93.317 of title 14, Code of Federal Regulations, shall be revised as follows:

(A) ENTRY INTO EFFECT OF CURFEW.—The curfew shall go into effect—

(i) at 6:00 p.m. on April 16 through August 31;

(ii) at 5:30 p.m. on September 1 through September 15;

(iii) at 5:00 p.m. on September 16 through September 30;

(iv) at 4:30 p.m. on October 1 through October 31; and

(v) at 4:00 p.m. on November 1 through April 15.

(B) TERMINATION OF CURFEW.—The curfew shall terminate—

(i) at 8:00 a.m. on March 16 through October 15; and

(ii) at 9:00 a.m. on October 16 through March 15.

(2) MODIFICATIONS OF AIR TOUR ROUTES.—

(A) DRAGON CORRIDOR.—Commercial air tour routes for the Dragon Corridor (Black 1A and Green 2 routes) shall be modified to include a western ''dogleg'' for the lower ⅓ of the Corridor to reduce air tour noise for west rim visitors in the vicinity of Hermits Rest and Dripping Springs.

(B) ZUNI POINT CORRIDOR.—Commercial air tour routes for the Zuni Point Corridor (Black 1 and Green 1 routes) shall be modified—

(i) to eliminate crossing over Nankoweap Basin; and

(ii) to limit the commercial air tour routes commonly known as ''Snoopy's Nose'' to extend not farther east than the Grand Canyon National Park boundary.

(C) PERMANENCE OF BLACK 2 AND GREEN 4 AIR TOUR ROUTES.—The locations of the Black 2 and Green 4 commercial air tour routes shall not be modified unless the Administrator of the Federal Aviation Administration determines that such a modification is necessary for safety reasons.

(3) SPECIAL RULES FOR MARBLE CANYON SECTOR.—

(A) FLIGHT ALLOCATION.—The flight allocation cap for commercial air tour operations in Marble Canyon (Black 4 route) shall be modified to not more than 5 flights a day to preserve permanently the high level of natural quiet that has been achieved in Marble Canyon.

(B) CURFEW.—Commercial air tour operations in Marble Canyon (Black 4 route) shall be subject to a year-round curfew that enters into effect one hour before sunset and terminates one hour after sunrise.

(C) ELIMINATION OF COMMERCIAL AIR TOUR ROUTE.—The Black 5 commercial air tour route for Marble Canyon shall be eliminated.

(4) CONVERSION TO QUIET AIRCRAFT TECHNOLOGY.—

(A) IN GENERAL.—All commercial air tour aircraft operating in the Grand Canyon National Park Special Flight Rules Area shall be required to fully convert to quiet aircraft technology (as determined in accordance with appendix A to subpart U of part 93 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act)) by not later than the date that is 15 years after the date of the enactment of this Act.

(B) INCENTIVES FOR CONVERSION.—The Secretary and the Administrator of the Federal Aviation Administration shall provide incentives for commercial air tour operators that convert to quiet aircraft technology before the date specified in subparagraph (A), such as—

(i) reducing overflight fees for those operators; and

(ii) increasing the flight allocations for those operators.

(5) HUALAPAI ECONOMIC DEVELOPMENT EXEMPTION.—The exception for commercial air tour operators operating under contracts with the Hualapai Indian Nation under section 93.319(f) of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act) may not be terminated, unless the Administrator of the Federal Aviation Administration determines that terminating the exception is necessary for safety reasons.

(c) FLIGHT ALLOCATION CAP.—

(1) PROHIBITION ON REDUCTION OF FLIGHT ALLOCATION CAP.—Notwithstanding any other provision of law, the allocation cap for commercial air tours operating in the Grand Canyon National Park Special Flight Rules Area in effect on the day before the date of the enactment of this Act may not be reduced.

(2) RULEMAKING TO INCREASE FLIGHT ALLOCATION CAP.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue a notice of proposed rulemaking that—

(A) reassesses the allocations for commercial air tours operating in the Grand Canyon National Park Special Flight Rules Area in light of gains with respect to the restoration of natural quiet and experience in the Park;

(B) makes equitable adjustments to those allocations, subject to continued monitoring under subsection (a)(3); and

(C) facilitates the use of new quieter aircraft technology by allowing commercial air tour operators using such technology to petition the Federal Aviation Administration to adjust allocations in accordance with improvements with respect to the restoration of natural quiet and experience in the Park resulting from such technology.

(3) INTERIM FLIGHT ALLOCATIONS.—

(A) IN GENERAL.—Until the Administrator issues a final rule pursuant to paragraph (2), for purposes of the allocation cap for commercial air tours operating in the Grand Canyon National Park Special Flight Rules Area—

(i) from November 1 through March 15, a flight operated by a commercial air tour operator described in subparagraph (B) shall count as ½ of 1 allocation; and

(ii) from March 16 through October 31, a flight operated by a commercial air tour operator described in subparagraph (B) shall count as ¾ of 1 allocation.

(B) COMMERCIAL AIR TOUR OPERATOR DESCRIBED.—A commercial air tour operator described in this subparagraph is a commercial air tour operator that—

(i) operated in the Grand Canyon National Park Special Flight Rules Area before the date of the enactment of this Act; and

(ii) operates aircraft that use quiet aircraft technology (as determined in accordance with appendix A to subpart U of part 93 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act)).

(d) COMMERCIAL AIR TOUR USER FEES.—Notwithstanding section 4(n)(2)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(n)(1)(2)(A)), the Secretary—

(1) may establish a commercial tour use fee in excess of $25 for each commercial air tour aircraft with a passenger capacity of 25 or less for air tours operating in the Grand Canyon National Park Special Flight Rules Area in order to offset the costs of carrying out this section; and

(2) if the Secretary establishes a commercial tour use fee under paragraph (1), shall develop a method for providing a significant discount in the amount of that fee for air tours that operate aircraft that use quiet aircraft technology (as determined in accordance with appendix A to subpart U of

part 93 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act)).

SA 3529. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 723. POLLOCK MUNICIPAL AIRPORT, LOUISIANA.

(a) FINDINGS.—Congress finds that—

(1) Pollock Municipal Airport located in Pollock, Louisiana (in this section referred to as the ''airport''), has never been included in the national plan of integrated airport systems established pursuant to section 47103 of title 49, United States Code, and is therefore not considered necessary to meet the current or future needs of the national aviation system; and

(2) closing the airport will not adversely affect aviation safety, aviation capacity, or air commerce.

(b) REQUEST FOR CLOSURE.—

(1) APPROVAL.—Notwithstanding any other provision of law, requirement, or agreement and subject to the requirements of this section, the Administrator of the Federal Aviation Administration shall—

(A) approve a request from the town of Pollock, Louisiana, to close the airport as a public airport; and

(B) release the town from any term, condition, reservation, or restriction contained in a surplus property conveyance or transfer document, and from any order or finding by the Department of Transportation on the use and repayment of airport revenue applicable to the airport, that would otherwise prevent the closure of the airport and redevelopment of the facilities to nonaeronautical uses.

(2) CONTINUED AIRPORT OPERATION PRIOR TO APPROVAL.—The town of Pollock shall continue to operate and maintain the airport until the Administrator grants a request from the town for closure of the airport under paragraph (1).

(3) RELOCATION OF AIRCRAFT.—Before closure of the airport, the town of Pollock shall provide adequate time for any airport-based aircraft to be relocated.

(c) REPAYMENT OF CERTAIN FEDERAL FUNDS.—Upon closing the airport pursuant to subsection (b), the town of Pollock shall return to the Federal Aviation Administration any amounts remaining from amounts provided by the Administration for airport operating expenses.

SA 3530. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 279, after line 24, add the following:

SEC. 723. PROHIBITION ON FUNDING OF EAS AIRPORTS WHERE OPERATING AIR CARRIERS RECEIVE SUBSIDIES AT RATES EXCEEDING $200 PER PASSENGER.

The Administrator of the Federal Aviation Administration may not make any amount available under subchapter I of chapter 471 of title 49, United States Code, for a project relating to an airport—

(1) that is an eligible place, as such term is defined in section 41731 of such title; and

(2) in which an air carrier operates and receives compensation under subchapter II of chapter 417 of such title at a rate that exceeds $200 per passenger.

SA 3531. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 114, strike line 8 and all that follows through page 116, line 6 and insert the following:

SEC. 414. CONVERSION OF FORMER EAS AIRPORTS.

(a) IN GENERAL.—Section 41745 is amended to read as follows:

''§ 41745. Conversion of lost eligibility airports

''(a) IN GENERAL.—The Secretary shall establish a program to provide general aviation conversion funding for airports serving eligible places that the Secretary has determined no longer qualify for a subsidy.

''(b) GRANTS.—A grant under this section—

''(1) may not exceed twice the compensation paid to provide essential air service to the airport in the fiscal year preceeding the fiscal year in which the Secretary determines that the place served by the airport is no longer an eligible place; and

''(2) may be used—

''(A) for airport development (as defined in section 47102(3)) that will enhance general aviation capacity at the airport;

''(B) to defray operating expenses, if such use is approved by the Secretary; or

''(C) to develop innovative air service options, such as on-demand or air taxi operations, if such use is approved by the Secretary.

''(c) AIP REQUIREMENTS.—An airport sponsor that uses funds provided under this section for an airport development project shall comply with the requirements of subchapter I of chapter 471 applicable to airport development projects funded under that subchapter with respect to the project funded under this section.

''(d) LIMITATION.—The sponsor of an airport receiving funding under this section is not eligible for funding under section 41736.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 417 is amended by striking the item relating to section 41745 and inserting the following:

''41745. Conversion of lost eligibility airports.''.

SA 3532. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 250, strike line 12 and all that follows through page 251, line 18, and insert the following:

(e) COLLECTION OF FEES FROM AIR TOUR OPERATIONS.—

(1) IN GENERAL.—The Secretary of the Interior shall assess a fee in an amount determined by the Secretary under paragraph (2) on a commercial air tour operator conducting commercial air tour operations over a national park.

(2) AMOUNT OF FEE.—In determining the amount of the fee assessed under paragraph (1), the Secretary shall collect sufficient revenue, in the aggregate, to pay for the expenses incurred by the Federal Government to develop air tour management plans for national parks.

(3) EFFECT OF FAILURE TO PAY FEE.—The Administrator of the Federal Aviation Administration shall revoke the operating authority of a commercial air tour operator conducting commercial air tour operations over any national park, including the Grand Canyon National Park, that has not paid the fee assessed by the Secretary under paragraph (1) by the date that is 180 days after the date on which the Secretary determines the fee shall be paid.

(f) FUNDING FOR AIR TOUR MANAGEMENT PLANS.—The Secretary of the Interior shall use the amounts collected under subsection (e) to develop air tour management plans under section 40128(b) of title 49, United States Code, for the national parks the Secretary determines would most benefit from such a plan.

SA 3533. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 10, after the matter following line 5, insert the following:

(c) INSPECTOR GENERAL AUDIT.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct an audit of every airport in the United States that reported between 10,000 and 15,000 passenger enplanements during each of the 2 most recent years for which such data is available.

(2) AUDIT OBJECTIVES.—In carrying out the audits under paragraph (1), the Inspector General shall analyze the method used by each subject airport to reach the 10,000 passenger enplanement threshhold, including whether airports subsidize commercial flights to reach such threshhold.

(3) REPORT.—The Inspector General shall submit a report to Congress and to the Secretary of Transportation that contains the results of the audits conducted under this subsection.

(4) RULEMAKING.—After reviewing the results of the audits under paragraph (1), the Secretary of Transportation shall promulgate regulations for measuring passenger enplanements at airports that—

(A) include the method for determining which airports qualify for Federal funding under the Airport Improvement Program (AIP);

(B) exclude artificial enplanements resulting from efforts by airports to trigger increased AIP funding; and

(C) sets forth the consequences for tampering with the number of passenger enplanements.

SA 3534. Mr. WYDEN (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 246, strike lines 16 through 18 and insert the following:

(D) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A)—

(aa) by striking '', in cooperation with'' and inserting ''and''; and

(bb) by striking ''The air tour'' and all that follows; and

(II) by redesignating subparagraph (B) as subparagraph (C);

(III) by inserting after subparagraph (A) the following:

''(B) PROCESS AND APPROVAL.—The establishment of air tour management plans shall be a fully cooperative process between the Administrator and the Director. The Administrator shall be responsible for ensuring the safety of America's airspace and the Director shall be responsible for protecting park resources and values. Each air tour management plan shall be—

''(i) developed through a public process that complies with paragraph (4); and

''(ii) approved by the Administrator and the Director.''; and

(IV) by adding at the end the following:

''(D) EXCEPTION.—An application to begin commercial air tour operations at any unit of the national park system that did not have air tour operations in effect, as of the date of the enactment of the FAA Air Transportation Modernization and Safety Improvement Act, may be denied, without the establishment of an air tour management plan, if—

''(i) the Administrator determines that such operations would create a safety problem for the airspace over the park; or

''(ii) the Director determines that such operations would unacceptably impact park resources or visitor experiences.''; and

(ii) in paragraph (4)(C), by striking ''National Park Service'' and inserting ''Department of the Interior''.

SA 3535. Mr. BEGICH submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC.——. FINANCIAL INCENTIVES FOR NEXTGEN EQUIPAGE.

(a) IN GENERAL.—The Secretary of Transportation may make grants or loans, execute agreements, and engage in other transactions authorized under section 106(1)(6) of title 49, United States Code, to accelerate the transition to the Next Generation Air Transportation System by mitigating the costs of equipping aircraft with communications, surveillance, navigation, and other avionics to enable NextGen air traffic control capabilities.

(b) MATCHING REQUIREMENT.—In making grants, contracts, leases, cooperative agreements, other transactions, or credit instruments available under subsection (a), the Secretary shall require that not less than 50 percent of the costs of the activity funded come from non-Federal sources.

(c) FUNDING.—In carrying out subsection (a), the Secretary may use the authority under section 106(1)(6) of title 49, United States Code, as provided by appropriations Acts, for not more than $50,000,000 for all fiscal years combined.

(d) REPORT.—Within 180 days after the date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the potential for a program of grants, low-interest loans, and other incentives for equipping general aviation aircraft with NextGen avionics.

SA 3536. Mr. BEGICH submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 233, line 12, strike ''system;'' and insert ''system and the installation of weather radars supporting that system;''.

On page 233, line 17, after ''aides'' insert ''and weather radars''.

On page 235, line 7, after ''Security,'' insert ''Commerce,''.

On page 235, line 11, strike ''infrastructure'' and insert ''infrastructure, including surveillance and weather radars,''.

On page 235, line 19, after ''Services,'' insert ''the Senate Committee on Commerce, Science, and Transportation,''.

On page 236, line 8, after ''systems,'' insert ''weather radars,''.

SA 3537. Mr. BROWN of Ohio (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

Strike section 319 and insert the following:

SEC. 319. UNMANNED AERIAL SYSTEMS.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Administrator shall develop a plan to accelerate the integration of unmanned aerial systems into the National Airspace System that—

(1) creates a pilot project to integrate such vehicles into the National Airspace System at 5 test sites in the National Airspace System by 2012;

(2) creates a safe, non-exclusionary airspace designation for cooperative manned and unmanned flight operations in the National Airspace System;

(3) establishes a process to develop certification, flight standards, and air traffic requirements for such vehicles at the test sites;

(4) dedicates funding for unmanned aerial systems research and development to certification, flight standards, and air traffic requirements;

(5) encourages leveraging and coordination of such research and development activities with the National Aeronautics and Space Administration and the Department of Defense;

(6) addresses both military and civilian unmanned aerial system operations;

(7) ensures the unmanned aircraft systems integration plan is incorporated in the Administration's NextGen Air Transportation System implementation plan; and

(8) provides for verification of the safety of the vehicles and navigation procedures before their integration into the National Airspace System.

(b) TEST SITE CRITERIA.—In determining where the test sites to be established under the pilot project required by subsection (a)(1) are to be located, the Administrator shall—

(1) take into consideration geographical and climate diversity; and

(2) select one such site, subject to approval by the Secretary of the Air Force, that is located in proximity to principal Air Force research and acquisition functions to take advantage of Air Force instrumented radars and related research equipment and current defense science, research, and development activities in unmanned aerial systems.

SA 3538. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 10, after the matter following line 5, insert the following:

(c) INSPECTOR GENERAL AUDIT.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct an audit of every airport in the United States that reported between 10,000 and 15,000 passenger enplanements during each of the 2 most recent years for which such data is available.

(2) AUDIT OBJECTIVES.—In carrying out the audits under paragraph (1), the Inspector General shall analyze the method used by each subject airport to reach the 10,000 passenger enplanement threshold, including whether airports subsidize commercial flights to reach such threshold.

(3) REPORT.—The Inspector General shall submit a report to Congress and to the Secretary of Transportation that contains the results of the audits conducted under this subsection.

(4) RULEMAKING.—After reviewing the results of the audits under paragraph (1), the Secretary of Transportation shall promulgate regulations for measuring passenger enplanements at airports that—

(A) include the method for determining which airports qualify for Federal funding under the Airport Improvement Program (AIP);

(B) exclude artificial enplanements resulting from efforts by airports to trigger increased AIP funding; and

(C) sets forth the consequences for tampering with the number of passenger enplanements.

(d) PROPORTIONAL APPORTIONMENTS.—Section 47114(c)(1) is amended to read as follows:

''(1) PRIMARY AIRPORTS.—The Secretary shall apportion to the sponsor of each primary and non-primary airport for each fiscal year an amount that bears the same ratio to the amount subject to apportionment for fiscal year 2009 as the number of passenger boardings at the airport during the prior calendar year bears to the aggregate of all passenger boardings at all primary airports during that calendar year.''.

SA 3539. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

Beginning on page 34, strike line 8 and all that follows through page 36, line 4, and insert the following:

(i) PROPORTIONAL APPORTIONMENTS.—Section 47114(c) is amended by striking paragraph (1) and inserting the following:

''(1) PRIMARY AIRPORTS.—The Secretary shall apportion to the sponsor of each primary and non-primary airport for each fiscal year an amount that bears the same ratio to the amount subject to apportionment for fiscal year 2009 as the number of passenger boardings at the airport during the prior calendar year bears to the aggregate of all passenger boardings at all primary airports during that calendar year.''.

SA 3540. Mr. WHITEHOUSE proposed an amendment to the bill S. 1782, to provide improvements for the operations of the Federal courts, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Judiciary Administrative Improvements Act of 2010''.

SEC. 2. SENIOR JUDGE GOVERNANCE CORRECTION.

Section 631(a) of title 28, United States Code, is amended in the first sentence by striking ''(including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed)''.

SEC. 3. REVISION OF STATUTORY DESCRIPTION OF THE DISTRICT OF NORTH DAKOTA.

Chapter 5 of title 28, United States Code, is amended by striking section 114 and inserting the following:

''§ 114. North Dakota

''North Dakota constitutes one judicial district.

''Court shall be held at Bismarck, Fargo, Grand Forks, and Minot.''.

SEC. 4. SEPARATION OF THE JUDGMENT AND STATEMENT OF REASONS FORMS.

Section 3553(c)(2) of title 18, United States Code, is amended by striking ''the written order of judgment and commitment'' and inserting ''a statement of reasons form issued under section 994(w)(1)(B) of title 28''.

SEC. 5. PRETRIAL SERVICES FUNCTIONS FOR JUVENILES.

Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following:

''(14) Perform, in a manner appropriate for juveniles, any of the functions identified in this section with respect to juveniles awaiting adjudication, trial, or disposition under chapter 403 of this title who are not detained.''.

SEC. 6. STATISTICAL REPORTING SCHEDULE FOR CRIMINAL WIRETAP ORDERS.

Section 2519 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''Within thirty days after the expiration of an order (or each extension thereof) entered under section 2518, or the denial of an order approving an interception, the issuing or denying judge'' and inserting ''In January of each year, any judge who has issued an order (or an extension thereof) under section 2518 that expired during the preceding year, or who has denied approval of an interception during that year,'';

(2) in paragraph (2), by striking ''In January of each year'' and inserting ''In March of each year''; and

(3) in paragraph (3), by striking ''In April of each year'' and inserting ''In June of each year''.

SEC. 7. THRESHOLDS FOR ADMINISTRATIVE REVIEW OF OTHER THAN COUNSEL CASE COMPENSATION.

Section 3006A of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) in paragraph (2)—

(i) in subparagraph (A), in the second sentence, by striking ''$500'' and inserting ''$800''; and

(ii) in subparagraph (B), by striking ''$500'' and inserting ''$800''; and

(B) in paragraph (3), in the first sentence, by striking ''$1,600'' and inserting ''$2,400''; and

(2) by adding at the end the following:

''(5) The dollar amounts provided in paragraphs (2) and (3) shall be adjusted simultaneously by an amount, rounded to the nearest multiple of $100, equal to the percentage of the cumulative adjustments taking effect under section 5303 of title 5 in the rates of pay under the General Schedule since the date the dollar amounts provided in paragraphs (2) and (3), respectively, were last enacted or adjusted by statute.''.

SA 3541. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. 564. STUDY OF AIR QUALITY IN AIRCRAFT CABINS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall conduct a study of air quality in aircraft cabins to—

(1) assess bleed air quality on the full range of commercial aircraft operating in the United States;

(2) identify oil-based contaminants, hydraulic fluid toxins, and other air toxins that appear in cabin air and measure the quantity and prevalence of those toxins through a comprehensive sampling program;

(3) determine the specific amount of toxic fumes present in aircraft cabins that constitutes a health risk to passengers;

(4) develop a systematic reporting standard for smoke and fume events in aircraft cabins;

(5) evaluate the severity of symptoms among individuals exposed to toxic fumes during flight;

(6) determine the extent to which the installation of sensors and air filters on commercial aircraft would provide a public health benefit; and

(7) make recommendations for regulatory or procedural changes to reduce the adverse health effects of poor air quality in aircraft cabins, including recommendations with respect to the appropriateness and public health benefits of a requirement to install sensors and air filters on all aircraft or all new aircraft.

(b) AUTHORITY TO MONITOR AIR IN AIRCRAFT CABINS.—For purposes of conducting the study required by subsection (a), the Administrator of the Federal Aviation Administration shall require domestic air carriers to allow air quality monitoring on their aircraft.

(c) REGULATIONS.—If the Administrator makes recommendations under subsection (a)(7) for regulations to reduce the adverse health effects associated with poor air quality in commercial aircraft cabins, the Administrator shall—

(1) issue a notice of proposed rulemaking with respect to such regulations not later than 18 months after the date of the enactment of this Act; and

(2) issue final rules with respect to such regulations not later than 36 months after the date of the enactment of this Act.

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 March 18, 2010 at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing to examine Bureau of Indian Affairs and tribal police recruitment, training, hiring, and retention.

Those wishing additional information may contact the Indian Affairs Committee at 202–224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 16, 2010, at 9:30 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 16, 2010, at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 16, 2010, at 2:30 p.m.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on March 16, 2010, at 2 p.m. to conduct a hearing entitled, ''Assessing Foster Care and Family Services in the District of Columbia: Challenges and Solutions.''

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

SUBCOMMITTEE ON WATER AND POWER

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate on March 16, 2010, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that Scott Glick, a member of Senator WARNER's staff, be granted the privilege of the floor during the pendency of morning business.

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

ORDER OF PROCEDURE—H.R. 2847

Mr. KAUFMAN. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the House message with respect to H.R. 2847,

there be 10 minutes of debate time, with the time equally divided and controlled between Senators GREGG and SCHUMER or their designees, at which time Senator GREGG is expected to make a budget point of order and Senator SCHUMER would move to waive any relevant points of order; that if the waiver is successful, then no further debate or motions be in order, and the Senate proceed to vote on the DURBIN motion to concur; further, that the order with respect to the DEMINT motion to suspend be vitiated; that upon disposition of the House message, the Senate then resume consideration of H.R. 1586, and any other provisions with respect to the House message remaining in effect.

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

COMMEMORATING THE 45TH ANNIVERSARY OF BLOODY SUNDAY

Mr. KAUFMAN. I ask unanimous consent the Judiciary Committee be discharged from further consideration of H. Con. Res. 249 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 249) commemorating the 45th anniversary of Bloody Sunday and the role that it played in ensuring the passage of the Voting Rights Act of 1965.

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

Mr. KAUFMAN. I ask unanimous consent the concurrent 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 be printed in the RECORD.

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

The resolution (H. Con. Res. 249) was agreed to.

The preamble was agreed to.

CONGRATULATING RADFORD UNIVERSITY ON ITS 100TH ANNIVERSARY

Mr. KAUFMAN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 456, submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 456) congratulating Radford University on the 100th anniversary of the university.

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

Mr. KAUFMAN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 456) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 456

Whereas Radford University was chartered on March 10, 1910, by the Commonwealth of Virginia as the State Normal and Industrial School for Women at Radford;

Whereas Radford University was chartered to prepare teachers to educate the people of the United States;

Whereas Radford University has grown substantially in scope and quality since the day on which the university was chartered;

Whereas Radford University was renamed the Radford State Teachers College in 1924 and the Women's Division of Virginia Polytechnic Institute in 1944, respectively;

Whereas Radford University was renamed Radford College in 1964 when the relationship between the Virginia Polytechnic Institute and Radford University ended;

Whereas Radford College was renamed Radford University in 1979;

Whereas, since the founding of the university, Radford University has provided thousands of students with the benefits of a Radford education;

Whereas Radford University graduates have made meaningful and lasting contributions to society through service, including service in—

(1) education;
(2) the sciences;
(3) business;
(4) health and human services;
(5) government;
(6) the arts and humanities; and
(7) other endeavors;

Whereas Radford University is a productive and vital academic community with thousands of students;

Whereas the students of Radford University approach university life with an enthusiasm for learning and personal development;

Whereas the brilliant faculty of Radford University is committed to the highest ideals of academic scholarship and the advancement of society;

Whereas the devoted administrators and staff members of Radford University strive to foster an environment that supports the noble work of the university;

Whereas the centennial of Radford University is an appropriate time for faculty, staff, students, alumni, and friends—

(1) to unite in recognition of the past achievements Radford University with pride; and

(2) to consider ways to create an even more successful university during the century ahead;

Whereas Radford University celebrates the culture of service of the university through a program entitled ''Centennial Service Challenge'' that invites every member of the campus and extended university community to engage in, and document community service in honor of, the centennial; and

Whereas Radford University will observe a Centennial Charter Day Celebration on March 24, 2010, and host numerous other academic programs and arts and cultural events throughout 2010 to commemorate the event: Now, therefore, be it

Resolved, That the Senate commends Radford University on the 100th anniversary of the university.

FEDERAL JUDICIARY ADMINISTRATIVE IMPROVEMENTS ACT OF 2009

Mr. KAUFMAN. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1782 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1782) to provide improvements for the operations of the Federal courts, and for other purposes.

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent that a Whitehouse substitute amendment which is at the desk be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The amendment (No. 3540) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Judiciary Administrative Improvements Act of 2010''.

SEC. 2. SENIOR JUDGE GOVERNANCE CORRECTION.

Section 631(a) of title 28, United States Code, is amended in the first sentence by striking ''(including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed)''.

SEC. 3. REVISION OF STATUTORY DESCRIPTION OF THE DISTRICT OF NORTH DAKOTA.

Chapter 5 of title 28, United States Code, is amended by striking section 114 and inserting the following:

''§ 114. North Dakota

''North Dakota constitutes one judicial district.

''Court shall be held at Bismarck, Fargo, Grand Forks, and Minot.''.

SEC. 4. SEPARATION OF THE JUDGMENT AND STATEMENT OF REASONS FORMS.

Section 3553(c)(2) of title 18, United States Code, is amended by striking ''the written order of judgment and commitment'' and inserting ''a statement of reasons form issued under section 994(w)(1)(B) of title 28''.

SEC. 5. PRETRIAL SERVICES FUNCTIONS FOR JUVENILES.

Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following:

''(14) Perform, in a manner appropriate for juveniles, any of the functions identified in this section with respect to juveniles awaiting adjudication, trial, or disposition under chapter 403 of this title who are not detained.''.

SEC. 6. STATISTICAL REPORTING SCHEDULE FOR CRIMINAL WIRETAP ORDERS.

Section 2519 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''Within thirty days after the expiration of an order (or each extension thereof) entered under section 2518, or the denial of an order approving an interception, the issuing or denying judge'' and inserting ''In January of each year, any judge who has issued an order (or an extension thereof) under section 2518 that expired during the preceding year, or who has denied approval of an interception during that year,'';

(2) in paragraph (2), by striking ''In January of each year'' and inserting ''In March of each year''; and

(3) in paragraph (3), by striking ''In April of each year'' and inserting ''In June of each year''.

SEC. 7. THRESHOLDS FOR ADMINISTRATIVE REVIEW OF OTHER THAN COUNSEL CASE COMPENSATION.

Section 3006A of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) in paragraph (2)—

(i) in subparagraph (A), in the second sentence, by striking ''$500'' and inserting ''$800''; and

(ii) in subparagraph (B), by striking ''$500'' and inserting ''$800''; and

(B) in paragraph (3), in the first sentence, by striking ''$1,600'' and inserting ''$2,400''; and

(2) by adding at the end the following:

''(5) The dollar amounts provided in paragraphs (2) and (3) shall be adjusted simultaneously by an amount, rounded to the nearest multiple of $100, equal to the percentage of the cumulative adjustments taking effect under section 5303 of title 5 in the rates of pay under the General Schedule since the date the dollar amounts provided in paragraphs (2) and (3), respectively, were last enacted or adjusted by statute.''.

The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

ORDERS FOR WEDNESDAY, MARCH 17, 2010

Mr. KAUFMAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, March 17; that following the prayer and the 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 resume consideration of the House Message on H.R. 2847, as provided for under the previous order. Finally, I ask that the Senate recess from 12:30 to 2 p.m. for a special Democratic caucus.

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

PROGRAM

Mr. KAUFMAN. Mr. President, Senators should expect two rollcall votes in relation to the HIRE Act beginning around 9:45 a.m. Upon disposition of the HIRE Act, the Senate will resume consideration of the FAA reauthorization legislation. Rollcall votes in relation to amendments to the FAA bill are expected to occur throughout the day.

As a reminder, at 2 o'clock tomorrow there will be a live quorum and the Senate will receive the managers appointed by the House of Representatives for the purpose of presenting and exhibiting Articles of Impeachment against G. Thomas Porteous, Jr., judge of the United States for the Eastern District of Louisiana. As a reminder, once the House managers are received, Senators will be sworn in and required to sign the Secretary's oath book.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. KAUFMAN. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:36 p.m., adjourned until Wednesday, March 17, 2010, at 9:30 a.m.