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## Senate

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

### PRAYER

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

Let us pray.

Almighty God, our loving Heavenly Father, the center of our joy, thank You for Your gracious care for each of us. Help our lawmakers live today with a sense of accountability to You, striving to please You more than others. Awaken them to the fact that You see all they do and hear all they say. May they walk from weakness to strength, growing in ethical fitness day by day in order to fulfill Your purposes for their lives. Lord, give them a special measure of inner peace so that they may be peacemakers during times of tension and conflict.

We pray in Your loving Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 17, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator

from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the House message to H.R. 2847, the HIRE Act. There will be 10 minutes for debate, equally divided and controlled between Senators GREGG and SCHUMER or their designees. We expect Senator GREGG to make a budget point of order with respect to the bill.

At approximately 9:45, the Senate will proceed to a series of two rollcall votes: the motion to waive the Gregg budget point of order and the motion to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to H.R. 2847.

Upon disposition of the HIRE Act, the Senate will resume consideration of FAA reauthorization. The Senate will recess from 12:30 until 2 p.m. for a special Democratic caucus.

When the Senate reconvenes at 2 p.m., there will be a live quorum. Senators are requested to come to the floor at that time. When a quorum is present, the Senate will receive the House managers for the purpose of presenting and exhibiting articles of impeachment against G. Thomas Porteous, judge of the U.S. Eastern District of Louisiana. Once the House managers are received, Senators will be sworn. Then Senators will be re-

quired to sign the Secretary's oath book.

In addition, rollcall votes in relation to FAA are expected throughout the day.

### RESERVATION OF LEADER TIME

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

### COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 2847, which the clerk will report.

The assistant legislative clerk read as follows:

House message to accompany H.R. 2847, an act making appropriations for the Departments of Commerce, and Justice and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes, with amendments.

Pending:

Durbin motion to concur in the amendments of the House to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill.

Durbin amendment No. 3498 (to the motion to concur in the amendments of the House to the amendment of the Senate to the amendment of the House to the amendment of the Senate), of a perfecting nature.

Durbin amendment No. 3499 (to amendment No. 3498), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, all postcloture time is considered expired and the motion to concur with an amendment is withdrawn.

There will be 10 minutes of debate, equally divided between the Senator from New Hampshire, Mr. GREGG, and the Senator from New York, Mr. SCHUMER, or their designees.

Who yields time?

The Senator from New York.

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



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Mr. SCHUMER. Mr. President, I rise in support of the legislation before us and the motion to waive the point of order.

This is a good day for American workers, for Congress is focusing on what they have asked us to focus on. Congress is focusing on what the American people want us to focus on, which is jobs, jobs, jobs, and Congress will act in a bipartisan way. So this is a break, in several ways, from the past. One, we are focusing on jobs and the economy. That is what we should be doing. Second, we are doing it in a bipartisan way.

The bill before us focuses on private sector jobs. It has four pieces. Each is lean. Each is directed at private sector jobs. Each will give the economy a certain lift. Last quarter, we had growth of 5.9 percent. That sounds great, but that 5.9 percent growth resulted in no new jobs being created. In fact, it resulted in a continued loss of jobs, admittedly less of a loss than in the past.

Our job is to take that growth and translate it into jobs for the American people, plain and simple, and that is what we are doing with this HIRE Act. At the center of it is a bipartisan piece of legislation: a payroll tax holiday for 1 year for any new worker hired who has been unemployed for 60 days, authored by the Senator from Utah, Mr. HATCH, and myself. It is the bipartisan glue which hopefully will stick with us as we move forward on our jobs agenda because this is just the first—certainly not the last—piece of legislation we will put forward in relation to jobs. If we don't create jobs, the economy will not move forward. If we don't create jobs, the American people, American business, and American labor could lose the optimism that has been part of this country since its founding. When you lose that optimism, you lose dollars and cents economically because businesses don't spend, workers don't prepare for the future, people get disconsolate.

So this legislation is admittedly modest and focused and will go far beyond what the specific legislation does because it will show the American people, it will show American business, large and small, it will show American workers Congress is focused on what they want us to focus on and that we will continue to work on our jobs agenda until jobs start growing, until people are being paid decent wages, until the economy roars back on a long and stable trajectory, which can only be done if employment goes up and underemployment goes down.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this isn't so much a jobs bill as it is a debt bill. It has debt, debt, and debt.

I voted against the budget which passed the House of Representatives. I voted against it because it had \$1 trillion worth of deficit every year for as

far as the eye can see. It basically put our country on a path of unsustainability, where the national debt will double in 5 years and triple in 10 years; where every one of these young men and women sitting before us who are pages, by the time they graduate from college, will have \$133,000 in Federal debt on their heads they will have to pay off as they go to work. I voted against it because it was profligate, because it wasn't disciplined, and because it was excessive.

However, it appears it wasn't excessive enough for my colleagues on the other side of the aisle. This will be the third week in a row the leadership of the Democratic Party in this body has brought a bill to this floor that violates their own budget and spends more than their own budget called for. A budget which this year will run \$1.6 trillion of deficit isn't running a big enough deficit, according to the other side of the aisle. They have to run up the deficit with this bill by another \$3 billion of authorized money, above their own budget. That is on top of last week, when they spent \$30 billion this year and \$100 billion over 5 years in excess of their own budget.

When is it going to stop? When is it going to stop? When are we going to stop spending money around here as if there is no tomorrow? Because pretty soon there will be no tomorrow for our children as we add this debt to their backs and make it impossible for them to have the standard of living we have had.

Yesterday, Moody's said that although today the AAA rating of this country is not at risk, it may be down the road if we continue to spend money we don't have at the rate we are spending it. That is not a sign of optimism for the future; that is a sign our Nation is in trouble, and it is in trouble because of us.

There is a lot of talk around here about what is the systemic risk to this economy. The systemic risk is this Congress, which continues to spend money it doesn't have, send the bill on to our kids at a rate they can't afford to pay off. As a result, their lifestyle will actually have to be reduced, their quality of life, their standard of living will go down because they will be paying for all this debt we are putting on their backs today.

What is even worse is this Congress isn't even willing to live by the PROF-LIGATE—and I hope capital letters will be put in the RECORD on that because it should be all spelled out in capital letters—by the PROFLIGATE budget which passed the House, which projected trillions of dollars of deficits for as far as the eye could see and doubled the debt in 5 years and tripled it in 10 years. That wasn't enough. No. We have to come to the floor again this week, after last week, after the week before, with another bill that breaks their own budget.

So all I am asking for is that the other side of the aisle be willing to at

least live by its own budget. Last week I asked that they be willing to live by their own pay-go rules. That didn't pass, and \$100 billion was spent that wasn't paid for. So this week I am making a point of order that simply says: Live by your own budget. You passed a budget; at least live by that. Can't you live within a \$1.6 trillion deficit? Do you have to add another \$3 trillion of authorized dollars to this deficit this year? Gosh, I hope not. So I am making a point of order and asking that we live by the budget that was passed by the Democratic Congress.

The pending amendment would cause the aggregate levels of the budget authority and the outlays for the fiscal year 2010, as set out in the most recently agreed to concurrent resolution on the budget, S. Con. Res. 13, to be exceeded—the Democratic budget, by the way. Therefore, I raise a point of order under section 311(a)2 of the Congressional Budget Act of 1974.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from New York.

Mr. SCHUMER. Mr. President, I will support the motion to waive the point of order. I believe I have 1 minute left.

The world is topsy-turvy. My Republican colleagues are opposing a tax cut to businesses, large and small, that hire people. This is exactly what we should do. We don't want to be saying to workers we can't help them find a job. There are shades of Herbert Hoover in what my colleague is saying, and I don't think many of my colleagues on either side of the aisle would support that.

Let me say this about the budget point of order. The Joint Tax Committee, which we all respect, says these provisions are budget neutral.

We have found a way to hire workers, help businesses with tax cuts to hire them, and keep it budget neutral. Yet there is still opposition. When will it end? When will the bipartisan kind of feeling in this body return? This is a bipartisan measure that lives by many of the tenets the party on the other side has stood for, for decades.

Mr. President, is there any time remaining?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SCHUMER. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, the waiver provisions of applicable budget resolutions, and 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 the pending amendment, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Parliamentary inquiry. I have made a motion that says the

budget point of order stands under section 311, which point of order specifically lies because of the fact that the bill before us spends more in authority and outlay than the Budget Act passed by this Congress allows. Is that not correct? Is that motion not well taken?

The ACTING PRESIDENT pro tempore. The Chair understands that the point of order would be well taken.

Mr. GREGG. Which means that, Mr. President, more money is being spent than is allowed to be spent under our budget rules; is that not correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GREGG. I thank the Chair.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion. The yeas and nays have been ordered.

Mr. SCHUMER. Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Republican leader is recognized.

HEALTH CARE

Mr. MCCONNELL. Mr. President, I have been in the Senate for quite a while. I have seen a lot, but I have never seen anything like the plan House Democrats hatched this week to jam their health care bill through Congress and over the objections of the American people.

Americans woke up yesterday thinking they had seen everything in this debate already. Then they heard the latest. They heard that Democrats want to approve the Senate version of the health care bill without actually standing up and taking a vote on it. Let me say that again. They heard that Democrats over in the House want to approve the Senate bill without actually voting on it. These Democrats want to approve a bill that rewrites one-sixth of the economy, forces taxpayers to pay for abortions, raises taxes in the middle of a recession, and slashes Medicare for seniors, without leaving their fingerprints on it. In other words, they want to get around the very purpose of a rollcall vote. They want to hide what they are doing from the American people whom they seem to view as an obstacle. They want to hide what they are doing from the American people whom they see as an obstacle to what they are trying to do.

Well, it won't work. They realized that yesterday when they saw the public reaction to their plan. Americans are more outraged than ever. Americans are shocked at these tactics. They are fed up, and they have had enough. The longer Democratic leaders ignore this outrage and ignore these questions, the worse it is going to get.

Democrats have lost their perspective in this debate. They have lost

their way. They do not even seem to care what the public thinks. Speaker PELOSI said yesterday that they will do "whatever it takes" to ensure this bill becomes law. While she is at it, she is throwing other legislation into the bill that does not have anything to do with health care—major legislation that would enable the government to take over the student loan industry without any debate whatsoever. That has been their strategy all along. Anytime one of their proposals meets resistance, they look for a way to get around it. But the schemes they have used end up making their proposals even more repellent than they originally were. And this latest scheme is the most outrageous one yet.

What has happened is they are trapped in a vicious cycle that someone over there needs to bring to a halt. This is now a fight between Democrats and their own constituents, and the only way to stop this madness is for a few courageous Democrats to step forward and put a stop to it.

Historians will remember this as a new low in this debate: the week America was introduced to the scheme-and-deem approach to legislating—the scheme-and-deem approach to legislating. They will remember this as the week Congress tried to pull the wool over the eyes of the public in order to get around their will. And they will remember the men and women who stand up and put an end to it.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion. The yeas and nays have been ordered. 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 Senators are necessarily absent: the Senator from Utah (Mr. BENNETT) and the Senator from Idaho (Mr. CRAPO).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 63, nays 34, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—63

Akaka	Feinstein	Mikulski
Baucus	Franken	Murray
Bayh	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inhofe	Reid
Bond	Inouye	Rockefeller
Boxer	Johnson	Sanders
Brown (MA)	Kaufman	Schumer
Brown (OH)	Kerry	Shaheen
Burr	Klobuchar	Snowe
Cantwell	Kohl	Specter
Cardin	Landrieu	Stabenow
Carper	Lautenberg	Tester
Casey	Leahy	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lieberman	Voinovich
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkeley	Wyden

NAYS—34

Alexander	Enzi	McConnell
Barraso	Graham	Murkowski
Brownback	Grassley	Nelson (NE)
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Isakson	Shelby
Cochran	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	LeMieux	Wicker
DeMint	Lugar	
Ensign	McCain	

NOT VOTING—3

Bennett	Byrd	Crapo
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The ACTING PRESIDENT pro tempore. On this vote, the yeas are 63, the nays are 34. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, the Senate has an opportunity today to take another step toward restoring job growth and opportunity for American workers. Others have discussed the importance of this bill's provisions to help put Americans back to work, and I agree: This bill marks important progress in lowering unacceptable levels of unemployment.

But sending the Hiring Incentives to Restore Employment Act to the President's desk would also mark a significant victory for law-abiding U.S. taxpayers. Right now, thousands of U.S. tax dodgers conceal billions of dollars in assets within secrecy-shrouded foreign banks, dodging taxes and penalizing those of us who pay the taxes we owe. The Permanent Subcommittee on Investigations, which I chair, has estimated that these tax-dodging schemes cost the Federal Treasury \$100 billion a year.

But under this legislation, for the first time, foreign banks will be required to disclose their U.S. account holders to the U.S. Government or face significant penalties. This provision will make it far more difficult for tax dodgers to conceal assets and income in foreign banks. As more banks set up systems to disclose U.S. account holders, bank secrecy will become increasingly difficult to maintain. With increased transparency will come less tax evasion, less money laundering, and less crime.

Certainly this legislation will not end tax avoidance or money laundering. Its provisions do not take effect for several years, and its impact will depend in large part on the willingness of regulators at the Treasury Department and elsewhere to write strict regulations and enforce them vigorously. It also will not affect banks willing to continue to conceal their U.S. account holders despite the penalties that carries a significant loophole for tax dodgers and the foreign banks that assist them. So this legislation is not a silver bullet. In fact, I believe our tax enforcement regime could be strengthened by provisions of the Stop Tax

Haven Abuse Act, S. 506, which I introduced with Senators McCASKILL, NELSON, WHITEHOUSE, SHAHEEN, and SANDERS. For example, Treasury should have authority to prohibit U.S. banks from participating in wire transfers with or honoring credit cards from overseas banks that impede U.S. tax enforcement.

I will continue to press for enactment of S. 506 and to build the growing momentum against overseas tax abuses. Make no mistake, today marks an important milestone. For the first time in years, we are poised to approve legislation with a real chance to pull back the curtain of bank secrecy, expose offshore accounts, and ensure that those who owe taxes pay them. Amid the growing concern over our budget deficit and American families' concerns about making ends meet, we can no longer afford to allow tax dodgers to hide behind this curtain, avoiding their obligations and leaving their rightful tax burden for honest taxpayers to carry. I urge my colleagues to approve the HIRE Act, in the interest of America's workers and America's honest taxpayers.

Mr. HATCH. Mr. President, I wish to discuss the jobs legislation, known as the HIRE Act, on which the Senate will be voting tomorrow morning, and to express my deep concerns with the direction this bill has taken over the past few weeks.

Ever since the collapse of the financial markets in late 2008, helping our economy should have been a priority for this deliberative body. However, it has taken more than a year for us to seriously address legislation that would promote permanent job growth.

Several of my Finance Committee colleagues on both sides of the aisle put a lot of time and effort into the creation of a compromise jobs bill that Chairman BAUCUS and Senator GRASSLEY were trying to move forward. I had high hopes that we might help thaw the partisan freeze that has had this Chamber gridlocked for so long. But then, just as it looked like we might see some light at the end of this bitter tunnel, the rug was pulled out from underneath us by the majority leader's inexplicable decision to hijack our work and alter it with a piece of legislation that he knew would replace cooperation with acrimony.

But if that weren't enough, the majority leader added another slap in the face of the minority; he once again filled the amendment tree, thus shutting off the minority's ability to attempt to improve the bill. To those unfamiliar with the Senate process, when the majority leader fills the amendment tree, he prevents anyone else from being able to offer any amendments to the underlying legislation. Thus, he prevents compromise.

I have served in this body for a long time, and I cannot remember an incident that exhibited as much raw political gamesmanship as this one did. The fact that the majority leader chose to

choke off the first genuine attempt at cooperation on a major issue of such importance does not bode well for the remainder of this Congress. How are those of us in the minority supposed to have faith that we will not be excluded from future debates? It is easy to label Republicans as the party of no when they are completely excluded from the legislative process. When this happens, "no" is the only option that remains.

But what puzzles me the most is what, even if they succeed, will the majority gain from this maneuver? The Senate operates on a level of trust that agreements will be honored, but now even that has come into question.

Less than 2 months ago, I sat in the House Chamber while the President gave his State of the Union Address where he raised the importance of bipartisan cooperation, especially in the area of job creation. The fact that the President hit a nerve with this plea is evident by the effort to build such a bipartisan bill in the Finance Committee in the weeks following. However, it is obvious that many on the other side cannot stand the thought of working with our side when there might be political points to be gained by trying to embarrass us.

Here are a few of the things the President said about the need for bipartisanship in the State of the Union Address:

"And what the American people hope—what they deserve—is for all of us, Democrats and Republicans, to work through our differences;"

"[Americans] are tired of the partisanship and the shouting and the pettiness."

"These aren't Republican values or Democratic values that they're living by; business values or labor values. They're American values."

In the same breath, President Obama went on to address the need to promote job growth by saying:

"Now, the true engine of job creation in this country will always be America's businesses."

"We should start where most new jobs do—in small businesses, companies that begin when an entrepreneur takes a chance on a dream, or a worker decides it's time she became her own boss."

And finally:

"[We should] Provide a tax incentive for all large businesses and all small businesses to invest in new plants and equipment."

I certainly believed—as did most Republicans—that the President was being sincere. But soon after President Obama addressed the Nation, Senate Democratic and Republican members of the Finance Committee went to work on a bipartisan solution to creating a jobs growth bill. I worked with Senator SCHUMER to come up with a payroll tax holiday for those companies that hired unemployed workers. Under this incentive, the sooner a company hired someone, the greater the tax incentives the company would re-

ceive. This initiative is a perfect example of the kind of bipartisan President Obama was talking about during the State of the Union.

Senators BAUCUS and GRASSLEY joined in this effort by including several other provisions aimed at job growth and remedies to address the symptoms of a failing economy. This was a compromise that included an extension of unemployment insurance, Build America Bonds, and the extension of the expired tax provisions.

Let me be clear, there is no doubt in my mind and in the mind of many of my colleagues that passing a jobs bill is crucial. We have seen our unemployment rate remain stagnant at around 10 percent since last September. The American people sent us here to do a job, and it is way past time we did it.

This is why it was so shocking, then, that on Thursday, February 11, the Senate majority leader suddenly announced that he was scrapping the compromised proposal only hours after it was unveiled, proceeding instead with a scaled-down bill. In minutes, the majority leader pulled the rug out from not only Republicans but also those Democrats who had been working for weeks on a bipartisan solution. Regrettably, because of the majority leader's decision, it looks as though President Obama's hope for a bipartisan solution to job creation only lasted 2 weeks. What a shame.

To illustrate the abruptness and surprise in Senator REID's unexpected action, just look at the headlines the following day:

"Key Dem: Reid scrapped jobs bill because he did not trust Republicans" the Hill.

"Reid kills Baucus-Grassley jobs bill"—the Politico.

"Senate leader slashes jobs bill; Despite new support"—LA Times.

But it does not end there. The majority leader sent a pretty strong message when he said that he—and I quote—dared Republicans to vote against his bill.

His Democratic colleagues were quick to stand behind this reversal. Some Democratic Senators went so far as to say Republicans are not interested in a bipartisan deal because we were more inclined to play rope-a-dope again. They went on to characterize the tax extenders as only going to people who are making money. They even went so far as to say that what the Democratic caucus is taking to the floor is something that is more focused on job creation than on tax breaks.

Now I know the Senate recently passed the expiring tax extenders package as a part of a broader bill. But what continues to astound me is how quickly so many Democratic Senators were to abandon these tax extenders. In fact, most of them support—and even voted to extend—these tax provisions. The Democratic leadership even erroneously labeled the tax extenders as a solely Republican-supported initiative. And many Democrats, including the majority leader, are cosponsors

of legislation that would extend many of the expiring tax provisions. Look at the bills to extend the research tax credit or the alternative fuels vehicle credit or even the new markets tax credit. These are by no means solely Republican initiatives. The exclusion of these tax extenders caused one Democrat to criticize the majority leader's action by saying "this bill was carefully crafted to achieve significant bipartisan support and contains several important measures to spur business growth and encourage new hires." So to label support for extending these expiring tax provisions as part of a solely Republican agenda is misleading, unfair, and unwarranted. These statements were made only to support a desperate, hasty, and ill-considered decision. The icing on the cake was when the Senate ended up passing these very tax extenders last week by a vote of 70 to 28. In fact, only one Democrat Senator voted against these tax extenders.

Some have questioned how extending these expired tax provisions relate to job creation. It is a fair question but one with easy answers.

The extension of these expired tax provisions only supports proven growth of companies that are slowly beginning to see the light at the end of the tunnel. Government funding would only provide a false sense of job growth because once the government funding is gone so will the jobs.

If we need proof that government spending is not as effective as tax relief, we only have to look to what the Congressional Budget Office said last year about the effects of the year-old economic stimulus package.

The legislation would increase employment by 0.8 million to 2.3 million by the fourth quarter of 2009, by 1.2 million to 3.6 million by the fourth quarter of 2010, by 0.6 million to 1.9 million by the fourth quarter of 2011, and by declining numbers in later years.

The reason why employment created from the stimulus bill would decline in later years is because government spending does not create permanent lasting jobs. The private sector, however, can create permanent, self-sustaining jobs. The tax incentives give the private sector a much needed boost. If we had included more tax incentives for businesses in last year's economic stimulus bill we would have created jobs that would have lasted well beyond the 2 or 3 years government spending would have created.

Originally projected to provide \$787 billion in stimulus, the Congressional Budget Office, CBO, now puts the 10-year costs of the stimulus bill at \$862 billion. This does not include interest owed, which would put the total cost at over \$1 trillion.

Of the \$862 billion stimulus package, only a third has been spent. Another third is expected to be spent in 2010, and the remaining third will be spent after 2010. What ever happened to spending money on projects deemed to be shovel ready?

The administration has claimed the stimulus bill is responsible for creating

or saving 1 million jobs. If we take a closer look, we see this claim is very misleading. For example, it was reported that a construction company in Nevada reported creating 20 jobs on a project that has yet to receive money. A school district reported saving 665 jobs, even though it only employs about 600 people. A town in Oregon reported creating eight jobs on a contract for rattlesnake stewardship. In January of 2009, President Obama's economic advisers predicted in a report that with an \$800 billion stimulus, the unemployment rate would never go above 8 percent. Without the stimulus, they said, the rate would be at 9 percent. The unemployment rate has been near 10 percent since last September.

The stimulus package was sold to the American people as an immediate fix. I think the exact words were that it would be a "jolt" to the economy. Some of the quotes by the administration were "you'll see the effects immediately," from Larry Summers. "We'll start adding jobs rather than losing them," from Christina Romer, the President's Chair of Economic Advisers. "This will begin creating jobs immediately," from House majority leader STENY HOYER.

Back when he was pitching the stimulus bill, then-President-elect Obama said "90 percent of these jobs will be created in the private sector—the remaining 10 percent are mainly public sector jobs." However, in an article dated February 17, the Wall Street Journal reported that government data indicate that most of the jobs supported by stimulus spending belonged to public employees at the State and local level.

In fact, only 2 percent of the entire stimulus bill was dedicated toward tax relief for businesses. The public sector does not create permanent jobs; the private sector does. We need to provide a foundation to allow the private sector to flourish and create better paying jobs.

That is why many supported including these tax extenders in the HIRE Act. For instance, it is estimated that approximately 70 percent or more of the research tax credit benefits are attributable to salaries of performing U.S.-based research. How can some Senators disregard the effectiveness of some of these tax extenders on job growth? And keep in mind that the research credit has traditionally received more Democratic support in this body than it has Republican support. In fact, there is a bill to extend the expiring research tax credit. Of the 18 cosponsors of this bill, 11 are Democrats. Furthermore, this bill was introduced by the Democratic chairman of the Senate Finance Committee.

The President set the tone at the beginning of the year by calling on Congress to put forth a bipartisan solution to creating jobs in this country. In response, both Democrats and Republicans brought innovative ideas to the table. Then, in a sudden change of

events, many Republican ideas have been excluded from the jobs bill the majority leader has brought to the floor.

Again, the majority leader has maneuvered this legislation to prevent any amendments from being offered by our side. In fact, the majority leader continues to exclude Republicans from debate. Just look at this chart that shows how many times the majority leader has filled the amendment tree in relation to past majority leaders—25 times. If this is not an arrogance of power, then I do not know what is. I only hope the majority leader heeds to President Obama's plea for a bipartisan solution.

I think one Democrat, learning of the majority leader's action, said it best:

Most Americans don't honestly believe that a single political party has all the good ideas. I hope the Majority Leader will reconsider.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to H.R. 2847.

Mrs. MURRAY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative 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 Idaho (Mr. CRAPO).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 29, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—68

Akaka	Feingold	Mikulski
Alexander	Feinstein	Murkowski
Baucus	Franken	Murray
Bayh	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inhofe	Reid
Bond	Inouye	Rockefeller
Boxer	Johnson	Sanders
Brown (MA)	Kaufman	Schumer
Brown (OH)	Kerry	Shaheen
Burr	Klobuchar	Snowe
Burris	Kohl	Specter
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	LeMieux	Udall (NM)
Cochran	Levin	Voinovich
Collins	Lieberman	Warner
Conrad	Lincoln	Webb
Dodd	McCaskill	Whitehouse
Dorgan	Menendez	Wyden
Durbin	Merkley	

NAYS—29

Barrasso	Cornyn	Gregg
Brownback	DeMint	Hatch
Bunning	Ensign	Hutchison
Chambliss	Enzi	Isakson
Coburn	Graham	Johanns
Corker	Grassley	Kyl

Lugar	Risch	Thune
McCain	Roberts	Vitter
McConnell	Sessions	Wicker
Nelson (NE)	Shelby	

## NOT VOTING—3

Bennett	Byrd	Crapo
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The motion was agreed to.

Mr. ROCKEFELLER. Mr. President, I move to reconsider the vote and to lay that motion upon the table.

The motion to lay upon the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

## ORDER OF PROCEDURE

Mr. JOHANNIS. I ask unanimous consent to speak as in morning business, and I would also like to lock in, if you will, that Senator LANDRIEU will follow me.

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

## USDA ANIMAL IDENTIFICATION SYSTEM

Mr. JOHANNIS. I rise today to discuss the U.S. Department of Agriculture's Animal Identification System. Over the past several years, USDA has administered a system called the National Animal Identification System, NAIS.

The ultimate goal of the system was to keep track of animal movements so that we could trace back animals in the event of a disease outbreak. The first step under animal ID was to register farms where animals are housed, also known as premises, and that registration was to occur in a database.

After registering a premise, a producer could identify individual animals or groups of animals that moved to or from a premise, each given an individual ID number. This system worked for those who wanted to use it. But no one was forced to participate. In other words, it was a voluntary system.

If producers wanted to participate in the program so they could keep track of an animal's movements or because a trading partner might be more inclined to buy their product, or for any reason that worked well with their operation, then it was there for them. It was at their disposal.

But as long as NAIS was in existence, it was a voluntary program. Now, recently, on February 5, 2010, USDA announced it was doing away with that and developing a new framework for animal disease traceability in the United States.

It caught my attention as a former Secretary of Agriculture. The Obama administration completed a series of listening sessions held by USDA's Animal and Plant Health Inspection Service—we refer to them as APHIS—and those were done just last year.

Having held farm bill forums across the country as the Secretary of Agriculture, I applaud any effort to hear directly from farmers and ranchers. I ap-

plaud USDA for seeking input on NAIS. I was very appreciative that, at my request, one of those animal ID listening sessions was, in fact, held in my own home State of Nebraska.

But I must admit, after the listening sessions I was very surprised at the new framework that the USDA has developed. USDA says the new program is not a mandatory program except for animals that travel to a different State from where they were born.

Think about that. With that little caveat, that basically means the program is a mandatory program for a whole lot of livestock in the United States. You see, anybody who has any farm background or agricultural experience will tell you that the vast majority of animals in this country move to a different State in their lifetime.

It is just simply a fact. Additionally, the program is mandatory not only for premise registration but for the actual tracking of the animal. Here is the real kicker. State governments will be tasked with keeping track of the livestock under the new system.

It is almost like this administration realized how much opposition there was to a mandatory system—and, believe me, there is—and decided to hand the hot potato to the States. But in doing that, they said, thou shalt do it but keep the headache off our desks.

States are genuinely and rightfully concerned about this new program potentially being dumped on them. I am already hearing from officials and producers in my home State, and they are enormously concerned by this proposal. Some groups are even urging the Nebraska Department of Agriculture, which would be tasked with administering the program, to refuse to participate. And, believe me, this is not the last State that will weigh in on this very controversial proposal.

Later this week, there is a meeting of State departments of agriculture, State veterinarians, and other interested parties to further examine this issue. That is why I am on the Senate floor. I am going to be very anxious to hear their input and to hear the outcome of that meeting because there is great concern in farm country for this proposal. My hope is that conference participants can get some answers to some basic questions.

Consider this: Let's say a Nebraska farmer buys a Nebraska calf with no tracking number and puts it out in a Nebraska pasture. So that is in state. That is pretty clear. No need to comply.

Sometime later, after that calf has gained some weight, it is then taken to the auction barn, the sale barn. At this point, in the sale barn, there are multiple buyers from all over the country typically. There could be buyers from Nebraska and Kansas, Iowa, and other States. They are all in the arena to bid on their calves.

But apparently only buyers from Nebraska could make bids even though other buyers from other States might

offer more money. Let's say by chance a Nebraska feedlot is the highest bidder and buys the calf, still in state, can feed that calf out—still no need to comply with the animal ID program. But now, some months later, the steer is ready to go to the packing plant, but the plant is on the other side of the river in another State, and they will pay more than a plant in state for that animal. Wait a second. Can the feedlot owner sell to the Iowa meat processor? Apparently not because the two owners prior to him chose to not participate in the program.

The bottom line: Many livestock auctions attract bidders from in state and States all over the country. So one can assume all animals sold through an auction barn will be required to have animal ID. For those who have been to these sales, can you imagine literally the auctioneer stopping the sale and saying: These animals are not registered; only Nebraska purchasers can buy the animals. If they were not ID'd, auctioneers would literally have to stop the bidding and announce where the potential seller resides for each animal without a tracking number. Then many of the buyers must sit on the sidelines, visit the bathroom, go to the vending machine, anything but bid on their calf. Can you imagine. It just doesn't make any sense. What will be the viability of the cattle operations in this country for that sale barn? What about the rancher who sells some of his cattle in state and some of it goes to facilities in other States? Will that person be required to tag some of the animals in the feedlot but not others? He or she is going to spend more time trying to figure out how to comply with the USDA program than he or she will spend ranching. Producers are basically going to be forced to fully participate in the program. I think the USDA knows it. If a potential buyer is from another State, there can be no deal unless the animal has the tracking number.

This looks like a backdoor mandate that is being packaged as something else. Worse yet, the package is being delivered and dropped on the doorstep of our States. Let's face facts. This so-called new animal ID plan is a mandatory system, when it was promoted as a voluntary one. In my judgment, to be blunt, this is a wolf in sheep's clothing, but America's farmers and ranchers are not going to be fooled. They know better than anyone that the vast majority of agricultural commerce occurs across State lines and even country to country. They deserve better.

Let me be clear. I did not come here to be critical of the fact that USDA is considering new approaches. In fact, I acknowledge that when I was the Secretary, I called a timeout to fully understand the complexities of the animal ID and to hear from producers. I openly said: I am considering making this a mandatory program. I thought a mandatory approach might be necessary, and we listened and studied it very closely.

Then we went to the countryside. We listened to farmers and ranchers. What we heard overwhelmingly is: Mike, do not make this a mandatory program. We realized that producers already comply with a laundry list of Federal regulations. In this administration, it grows by the day. They take numerous steps to ensure the safety of their animals. That is their livelihood. Mandating an animal identification system would have been one more costly burden dictated on the rancher by the Federal Government.

I appeal to my friend Secretary Vilsack. We were Governors together. I know where you are coming from. I went down that road too. I can tell you, Mr. Secretary, it is a dead end. On one hand, USDA has acknowledged the broad and deep opposition in the countryside when the administration seemed to say: We are going to go forward anyway. Our producers themselves have spent years trying to understand what NAIS is about. There is no repackaging that will convince them another Federal mandate is a good idea. Does this administration think States will embrace this hot potato with all the costs and the unanswered questions that go with it? I don't see it. The old NAIS system was not perfect. We always acknowledged that. This is hugely complicated. But calling it voluntary and then leaving producers no real choice is far from perfect, and, most importantly, it is not a solution.

I urge the USDA to reconsider.

I yield the floor.

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

#### SMALL BUSINESS

Ms. LANDRIEU. I am pleased to speak as chair of the Small Business Committee with several of my colleagues from the committee who have been hard at work coming up with ideas, drafting and passing legislation in the Small Business Committee over the last 3 months, particularly to get ready for this time. It is time that this Senate and Congress moved a third jobs bill with a focus on small business in America.

I acknowledge the members of the Small Business Committee. Two of them will join me this morning, and we will all, hopefully, be on the floor in the next couple of days talking about the importance of focusing on small business job creation. My ranking member, of course, is the great Senator from Maine, Ms. SNOWE; JOHN KERRY, former chair of the committee; CHRIS BOND, former chair; CARL LEVIN; DAVID VITTER; TOM HARKIN; JOHN THUNE; JOE LIEBERMAN; MIKE ENZI; MARIA CANTWELL; JOHNNY ISAKSON; EVAN BAYH; ROGER WICKER; MARK PRYOR; JAMES RISCHE; BEN CARDIN; JEANNE SHAHEEN; and KAY HAGAN. Let me say that these members have been extraordinary. We have passed not one, not two, not

three, not four, but five fairly significant pieces of legislation in a completely bipartisan fashion. The bills I will highlight this morning have been passed by our committee by large and convincing margins: 18 to 0, 15 to 3, 16 to 4. We are proud of the work we have done.

My call to the Senators this morning is to get our eyes off of Wall Street and onto Main Street. If we really want to dig out of this recession, created by a number of things—failed policies from the past administration, a confluence of the crash of the stock market and the financial sector, poor regulation from us over time—the people who have really suffered are the small business owners who, unlike large businesses and public companies, have put everything at risk—their future, their house, their children's future—everything at risk to create business because that is what Americans do, and we do it better than any country on Earth.

We recognize the strength of American business. It is about entrepreneurship. That is what the Small Business Committee is focused on. We want attention—and we will get it—to this issue.

I thank the members for their hard work and support. In this toxic environment, to get anything out of a committee with that kind of vote, we deserve a round of applause before we even start. But that is another story for another day.

Now we have to move the bills through the process. I want to share this graph, which is telling. Of the share of net new jobs created, 65 percent of the new jobs created by everything we do here will be created by small business, not by big business. Large firms are shrinking, reorganizing, sort of waiting for the market to come back. I understand that. They have a fiduciary responsibility. These folks are out there taking the big risk. When the way is not clear, when it is still cloudy, it is small businesses taking a chance that maybe things will turn around. These are the people we have to get our eyes on.

As chair of the Small Business Committee, I have heard for months that small businesses want to hire new workers. They need to hire new workers. They can expand their business, but they don't have the ability.

Small business owner Ray Meche, who owns several neighborhood pharmacies in southwest Louisiana, has an excellent track record. He has been in business for over 20 years. He has never missed a payment. He can't get a loan because he uses the small business lending program and he is capped at \$2 million. One of our bills would raise that cap to \$5 million. That is something we must do now. Until we do, business owners such as Ray wait. They wait to get larger loans to expand their businesses. They wait for a government contract. They wait for opportunities for counseling as they attempt to boost sales by tapping into potential markets overseas.

I want to show an export chart which is also telling. When I saw this, I had my staff use it at every townhall I do because I actually didn't believe it. I made them go back and do it several times because it was so contrary to my notion of the world. But it is true. This is the truth. Of all small businesses in America, of every one we know, less than 1 percent export their goods out of the country. Think about that. When the market in America is soft and our businesses are trying to create jobs, we can do what we can to energize these markets at home, but we most certainly should be looking overseas. I can tell you why small businesses would be a little nervous about it. Because they have never negotiated with big trade representatives China and Korea and Germany and France. It could be a little intimidating. They have great products. With the Internet, they have the world at their fingertips. What they don't have is an export bill by their own Congress that gives them an opportunity to get the training and technical assistance through departments we already pay for, departments that are already set up but just aren't focused on small business and helping them trade.

I want to see this pie chart expanded. I don't know if we can expand it to 10 percent of small businesses or 20 percent, but we can't sit at 1 percent while our people lose jobs here. That is why this package is important.

I thank Senator SHAHEEN for her extraordinary leadership and also my ranking member, Senator SNOWE, who has spent a great deal of time talking in the committee and in hearings about the opportunity for trade. That is what this package does as well.

I want to present the Access to Capital Coalition that is behind us. We did not come here to the floor alone. We have an extraordinary coalition for a jobs agenda from small business groups all over America, from the small business groups represented by the Chamber of Commerce, to the Federation of Small Business, to the San Francisco Small Business Network, to the Greater Providence Chamber of Commerce, the Marin Builders Association, the Main Street Alliance, just to read a few, Oregon Small Business for Responsible Leadership.

This list represents hundreds of thousands of businesses that say to me every day: Senator, does anybody know we are here? Every day we pick up the paper and we read about AIG, Goldman Sachs, General Motors, Exxon. We think those companies are great. We hope maybe to be as big as they are one day. But does anybody know we are here?

I know you are there. We are going to fight hard for you, and we are going to pull this coalition together to focus on the one group of people in America who can actually create jobs, which would be the small businesses, found in every neighborhood, on every Main Street, in urban areas, suburban areas. And, yes,

even rural areas can create the kind of jobs we need to lift this Nation out of the worst recession since the Great Depression.

I say to the Presiding Officer, you were a banker. You understand the importance of lending money to small businesses and getting it to them when they need it quickly. You established extraordinary opportunities in your home State of Illinois. That is what this package of bills does that has passed out of the Small Business Committee and is pending for action in this Senate.

Small businesses have borne the greatest burden in this economy. They are the business that have the greatest potential to improve it. By making these simple, inexpensive, and commonsense proposals to help small businesses, we can turn pink slips into paychecks for American workers, and we can lift our entire Nation out of this terrible recession into a brighter day in the future.

So, again, I thank my colleagues on the committee for working in such a bipartisan manner.

Mr. President, I ask unanimous consent to have printed in the RECORD an outline of the five bills that make up this package, S. 2869, the Small Business Job Creation and Access to Capital Act; S. 2862, the Small Business Export Enhancement and International Trade Act; S. 2989, the Small Business Contracting Improvement Act; S. 1229, the Entrepreneurial Development Act; and S. 1233 the SBIR/STTR Reauthorization Act.

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

#### ADDRESSING SMALL BUSINESS NEEDS TO CREATE JOBS

- S. 2869, the Small Business Job Creation and Access to Capital Act of 2009. (Landrieu/Snowe).  
Increases 7(a) loans limits from \$2 million to \$5 million; 504 loans from \$1.5 million to \$5.5 million, and microloans from \$35,000 to \$50,000.  
Allows the 504 loan program to refinance short-term commercial real estate debt into long-term, fixed rate loans.  
Extends the authorization to provide 90 percent guarantees on 7(a) loans and fee elimination for borrowers on 7(a) and 504 loans through December 31, 2010.  
CBO Score: \$23 million over six years—loan limit increase and refinance programs are budget neutral.  
Passed the Committee on December 17, 2009. Vote of 17–1.  
SBA has estimated the loan increase would increase lending to small businesses by \$5 billion the 1st year.
- S. 2862, the Small Business Export Enhancement and International Trade Act of 2009. (Snowe/Landrieu).  
Improves the SBA's trade and export finance programs.  
Elevates the Office of International Trade within the SBA and adds export finance specialists to the SBA's trade counseling programs.  
Establishes the State Export Promotion Grant Program (STEP), which would increase the number of small businesses that export.  
Improves coordination between federal and state agencies and SBA resource partners.  
CBO Score: \$69 million over six years.  
Passed the Committee on December 17, 2009. Vote of 18–0.  
Leverages more than \$1 billion in export capital for small businesses, creating/saving as many as 40,000–50,000 jobs in 2010.
- S. 2989, the Small Business Contracting Improvement Act of 2010 (Landrieu/Snowe).  
Closes loopholes in bundling.  
Eases payment concerns for subcontractors.  
Eases restrictions on teaming agreements and JV arrangements so small businesses have an opportunity to go after larger contracts.  
CBO Score: TBD  
Passed the Committee on March 4. Vote was unanimous.  
Increasing contracts to small businesses by just 1 percent can create more than 100,000 jobs.  
Reauthorizes for three years and strengthens the SBA's counseling programs: Small Business Development Centers, Women's Business Centers, SCORE, the Program for Investment in Microentrepreneurs (PRIME).  
Creates initiatives to increase business opportunities for veterans and Native Americans.  
CBO Score: \$614 million over five years.  
Passed the Committee on July 2, 2009. Vote of 18–0.  
Estimated to creating/saving more than 190,000 jobs in 2010.
- S. 1229, the Entrepreneurial Development Act of 2009. (Landrieu/Snowe).  
Reauthorizes the SBIR and STTR programs for eight years.  
Increases the allocation from 2.5 to 3.5 percent over ten years for the SBIR program.  
Increases from .3 to .6 percent for the STTR program.  
Adjusts the awards sizes for inflation and caps jumbo awards.  
Makes eligible a certain percentage of SBIR projects for firms majority owned and controlled by multiple venture capital firms.  
CBO Score: \$229 million over five years.  
Passed the Committee on July 2, 2009. Vote of 18–0.  
Estimated to provide more than \$2 billion in R&D funding for public-private partnerships between the government and small, high-technology firms and to create more than 500 new small businesses a year.
- S. 1233, the SBIR/STTR Reauthorization Act of 2009. (Landrieu/Snowe).  
Reauthorizes the SBIR and STTR programs for eight years.  
Increases the allocation from 2.5 to 3.5 percent over ten years for the SBIR program.  
Increases from .3 to .6 percent for the STTR program.  
Adjusts the awards sizes for inflation and caps jumbo awards.  
Makes eligible a certain percentage of SBIR projects for firms majority owned and controlled by multiple venture capital firms.  
CBO Score: \$229 million over five years.  
Passed the Committee on July 2, 2009. Vote of 18–0.  
Estimated to provide more than \$2 billion in R&D funding for public-private partnerships between the government and small, high-technology firms and to create more than 500 new small businesses a year.

Ms. LANDRIEU. We will take them up, hopefully, in a package at a later date, but I want to call my colleagues' attention to the package of bills that will expand loan limits, expand contracting opportunities with the Federal Government, which, by the way, spends billions of dollars right now with business. If we just spend a little bit more with small business, these small businesses—instead of absorbing the contracts, which the big businesses do—will have to hire up.

Mr. President, I ask unanimous consent for 30 more seconds.

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

Ms. LANDRIEU. Small businesses, when they get a contract from the Fed-

eral Government, will staff up because that is what small businesses do. They are very flexible. They are very agile. They will scale down, and they can scale up quickly.

So I am proud of this package. I want to recognize two of my members who are on the Senate floor: former Governor and now a Senator from New Hampshire, JEANNE SHAHEEN, who has been a great leader on this issue—I thank you, Senator—and also Senator BEN CARDIN from Maryland. He has been a particularly strong leader on the contracting for small businesses. So I would like to ask the Senator to join me in her remarks this morning.

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

Mrs. SHAHEEN. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mrs. SHAHEEN. Mr. President, I am so pleased to join Chairman LANDRIEU and my colleague, Senator BEN CARDIN. Hopefully, he will be able to speak after me to talk about the importance of small businesses and what we have to do to support small business in this country.

Small businesses in New Hampshire and across the country, as Senator LANDRIEU has said, are struggling. Of

the jobs lost last year, almost 40 percent came from businesses with 50 or fewer employees. While we have taken important steps to bring back the economy from the brink of depression, sales and consumer demand are still too low and too many small business owners remain frozen out of credit markets.

This economy is not going to fully recover until our small businesses fully recover. In the past, it has been small businesses that have created most of the jobs coming out of a recession, and this recovery is going to be no different. If we want to see job growth in this country, we need to take action to help small businesses get back on their feet.

Now, as a former small business owner, I know it is business and not government that creates jobs and drives innovation and new ideas. But I also know government has an important role to play in helping small businesses create jobs, especially in these very difficult economic times.

Under the leadership of our chair, Senator LANDRIEU, who has done a great job, along with our ranking member, Senator SNOWE, in the last several months the Small Business Committee has produced five major pieces of legislation to help small companies create jobs again, and Senator LANDRIEU has laid those out for people. I am proud to be a sponsor of all five of these bills.

They spur research and innovation. They ensure small businesses get their fair share of government contracts. They expand SBA lending programs so small businesses can obtain affordable credit. They strengthen the technical services the SBA can provide. And they help small businesses gain access to international markets to sell their goods and services.

These bills, as we have heard Senator LANDRIEU say, are bipartisan efforts that passed the committee with nearly unanimous votes from both Republican and Democratic members. I hope we are soon going to see these bills on the floor of the Senate and that they will pass unanimously.

All of the bills are important. But today I want to focus on what we can do to help open global markets to small business because I strongly believe that in order to have a sustained recovery from this recession, we need to expand exports. Domestic consumer demand in the United States simply will not rise to the level it was before the recession.

The good news is that the potential for export growth is enormous. Over 95 percent of the world's customers live outside of the United States. But as we saw so dramatically on that chart Senator LANDRIEU just showed, only about 1 percent of small businesses export their goods and services, and small companies that do export usually only sell to one foreign market, while larger companies typically sell to five or more foreign markets.

Emerging markets in developing countries such as China, India, and

Brazil offer great opportunities for growth. By 2020, about 90 percent of the world's population will live in emerging markets. There is a huge potential for smaller companies to tap these markets to grow their businesses and to create jobs.

I have long been an advocate for exporting because international markets are very important to New Hampshire. I was the first Governor to lead a trade mission from New Hampshire overseas, and those trade missions I led brought back about \$500 million in sales for New Hampshire businesses.

Small business generates almost half of New Hampshire's total exports, and we have some great success stories.

Dartware, a software developer in West Lebanon, on the western side of our State, first started exporting to Canada—which neighbors New Hampshire, for those people who are not sure on their geography. Now they sell to more than 80 countries. During this recession, exporting has made a huge difference on their bottom line. Last year, their international sales were 33 percent of their total sales. This past January, export sales represented 63 percent or almost double their total sales.

Another company, a small business called Sky-Skan, in Nashua, designs and produces state-of-the-art technologies for planetariums. You would not think there would be that many planetariums around the world, but they have exported their products and services to over 120 countries. Even in the midst of one of the most difficult economies in our Nation's history, Sky-Skan was able to bring on 10 new employees.

In his State of the Union speech, President Obama set a goal of doubling American exports in the next 5 years. He recently signed an executive order creating an Export Promotion Cabinet. I strongly support those efforts. I know other members of the Small Business Committee do as well.

A recent World Bank study found that each dollar spent on export promotion and assistance brought a fortyfold return. Right now, the United States spends considerably less than the international average in helping small businesses export. Government export promotion and assistance is a smart investment that helps create jobs. One of the important actions we need to take in the Senate to help improve export promotion is to quickly enact the Small Business Export Enhancement and International Trade Act of 2009—one of those five pieces of legislation Senator LANDRIEU laid out.

We need to make the SBA a more valuable resource for small businesses looking to export their goods and services, and this bill does just that. I hope as these bills come to the floor of the Senate, we will take a close look and we will recognize that if we are going to help small businesses export, then we have to give them the tools to do that. This legislation does that. It helps small companies finance their ex-

ports by increasing loan limits and guarantees in SBA export loan programs and expanding the number of SBA finance specialists who are posted around the country.

This bill directs the SBA to collaborate more with other agencies that provide services and programs for small exporters—something the SBA has begun doing under the leadership of Administrator Karen Mills.

More U.S. exports abroad mean more jobs at home. We can and must do more. We must do it smarter to help small companies compete globally. If we do not, we risk falling behind, and our economy, our businesses, and our families will lose out.

Mr. President, I yield the floor and look forward to hearing from my colleague, Senator CARDIN.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I also ask unanimous consent to speak as in morning business as part of the comments made by Senator LANDRIEU and Senator SHAHEEN.

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

Mr. CARDIN. Mr. President, we are here today to talk about the importance of job creation in our economy. We all know we need to create jobs. The way to create jobs is to help small businesses. Too much of the focus over the last couple years has been in helping the large companies, the large banks. We need to focus on small companies in order to create new job opportunities for Americans.

I compliment Senator SHAHEEN for her comments. She is absolutely right. Small businesses can create many jobs in the United States by creating products that are wanted around the globe. The problem is, it is very complicated for a small business owner to have the type of staff to deal with the difficulties of entering the international marketplace.

Senator SHAHEEN pointed out very clearly that the legislation Senator LANDRIEU has been instrumental in bringing forward in the Small Business Committee that deals with enhancing international trade for small companies, S. 2862, will provide more jobs in America by helping smaller companies be able to get their products into the international marketplace. That makes common sense.

As I said in the beginning, we need to create more jobs. Senator LANDRIEU, in her leadership on the Small Business Committee, has made that our top priority, and I congratulate her for bringing this to our attention.

We know over 50 percent—over 50 percent—of private sector jobs are with small companies. We know 64 percent of the net new jobs during the past 15 years have come from small companies. That is where the job growth will be. We are talking about creating jobs. We create more jobs through small companies, but we have to help them because they have many obstacles

today to be able to create those new jobs.

Forty percent of high-tech workers work for small companies. This is a very interesting statistic. There are 13 times more patents per employee in small companies than in larger companies. Innovation comes from our smaller companies. It does not mean we ignore larger companies. They have opportunities small companies do not have. But if we are going to create the jobs and innovation, we have to have a healthy atmosphere for small businesses today, and we need to do a better job.

What is the problem? Problem No. 1 is credit. Small companies cannot get traditional credit. Many large banks have just closed out giving loans to small companies. I can tell you of the calls I have gotten in my office, the letters I have gotten. There is a high-tech company located in Hunt Valley, MD. It is a small business that cannot get a bank to make a refinancing loan so that high-tech company can expand. They are doing very well. Their customer base would be very familiar to many of the Members of the Senate. But they cannot get a bank to be their partner in this environment because they are a small company.

As a result, many small companies, many small businesses resort to the use of their personal credit cards—their personal credit cards—in order to finance their business. One-third of small companies have over 25 percent of their overall debt from credit cards. Fifty percent of small businesses' interests rates are 15 percent or higher. That is not sustainable. You can't run a business based upon that type of financing. We have to do much better in that regard.

That is why I was particularly pleased by S. 2869, which Chairman LANDRIEU has brought forward with Senator SNOWE, that would strengthen the SBA's capacity to make credit available to small businesses. It would increase the 7(a) loan program. The 7(a) loans are the traditional loans small businesses get in order to finance their operations. It would increase the amount from \$2 million to \$5 million and continue the 90-percent Federal guarantee. The 504 loans, which are used primarily for bricks and mortar, would increase from \$1.5 million to \$5.5 million. The microloans, which give a business the opportunity for working capital so they can move forward with an innovation and an idea and create jobs, increase from \$35,000 to \$50,000. That tells us how important that is to a small business. That extra \$15,000 can be the difference between developing an idea to create jobs or not.

I congratulate Chairman LANDRIEU for bringing forward that legislation. It passed our committee by a 17-to-1 vote. This is a strong bipartisan bill that we hope will be made permanent.

I think we need to do more. I have introduced legislation that follows in the direction of the President. President

Obama has suggested we take some of the TARP funds and use it to help community banks make loans to small businesses. I think we should look at having direct loans by the SBA to small businesses, certainly as a backup, if the private sector is not going to show enough interest to help our small businesses.

I know there are other suggestions to help our States. Governor O'Malley has suggested a program that could use some additional Federal support and get money out quickly to small businesses for credit. We need to focus on that because there is a credit crisis for small businesses. We need to be able to do better than we are doing today if we are going to be able to create jobs. In every State in the Nation, I know my colleagues have heard from their small business owners that they can't get affordable credit. We need to act in order to bring us out of this current economic downturn.

There are other bills I wish to mention briefly. Chairman LANDRIEU mentioned the bill I have been involved with, S. 2989, the Small Business Contracting Improvement Act. Small businesses depend upon government procurement as an effort to get started and to grow. The problem is, there is this cozy relationship between procurement officers and larger companies, so they have developed into practices that have hurt small companies in being able to get the set-asides that we in Congress said they should get. So what the contractor for the government agency does is bundle a lot of contracts that should be offered individually, but they bundle them to make them too large for small businesses to be able to bid on. This legislation deals with the abuses of bundling. I congratulate our chair for bringing that forward.

It also deals with the abuses between subcontractors and prime contractors. It is no surprise to anyone here that small businesses are more likely to be subs. Well, we don't have transparency and openness and timely payments to the subs. The prime contractor is abusing privileges, and we have a responsibility to make sure the law is carried out with the set-asides to small businesses in our procurement policies. This legislation, which passed our committee by a unanimous vote earlier this month, I think will go a long way to helping small businesses create jobs in our community.

There is other legislation that is out there to strengthen the SBA counseling program that Chairman LANDRIEU mentioned. I think that is an important bill. It passed our committee by a 19-to-0 vote—again, strong bipartisan support.

There is another program I wish to mention quickly, because during the Recovery Act there should have been funds set aside for the SBIR/STTR programs. They were not. We have spoken about that before in this body. The legislation that passed our committee by an 18-to-0 vote would increase the allo-

cations for the SBIR and STTR programs, which are high-tech set-asides for small high-tech companies, which help us develop innovation technology here in America, keeping jobs in America and expanding jobs in America. It would increase that set-aside from a modest 2.5 percent to 3.5 percent. It passed our committee by an 18-to-0 vote.

These are all important bills that I hope we will have an opportunity to take up shortly as we look at the next jobs bill. I hope these provisions can be incorporated into legislation we consider. This is bipartisan. I think all my colleagues understand we have to create more job opportunities in America. The way to do it is to help small businesses deal with their current needs.

I will mention one other bill before yielding the floor; that is, the health care bill which will help small businesses. The problem I used to hear the most from my small businesses was about paying health care costs. Now I hear credit. Credit is their No. 1 problem. But we provide a credit—Senator LANDRIEU was helpful in getting this started earlier—to our small businesses so they can afford to provide health care for their employees. I thank Senator LANDRIEU for that provision. That is going to help small companies and help job growth.

We also created the exchanges. These are the exchanges where a small company can go in and buy health insurance policies. I can't tell my colleagues how many times I have heard from a small business owner saying: I am getting ripped off. I have no choice with an insurance plan I can take. I have a 30-percent increase, a 40-percent increase in premiums. My employees' health didn't deteriorate. Our costs didn't go up by that, but I have no choice. There is no other company I can get a policy with.

Well, under health reform, we provide options and choice and competition for the small business owner. Today, they are paying, on average, 20 percent more than large companies pay for comparable insurance coverage for their employees. That practice needs to end. We shouldn't be discriminating against small businesses in America, and we take major steps forward to eliminate that discrimination.

These are all things we can do to create jobs in America, to help our small businesses, help our Nation, help our recovery, and help us grow as a nation, to be even more competitive, offering good jobs to the people in our communities who are seeking employment.

With that, let me yield the remainder of my time to the chairman of the Small Business Committee, the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, again, I thank my colleagues both, and particularly Senator CARDIN, for that impassioned plea to focus this place on small business. If we are serious about

creating jobs, then our focus, our effort, our work should be for the millions of small businesses out there that with just a little bit of tweaking, a little bit of help from an export initiative here, some regulation reform here, loan pools here, changing current law, could help them do what they want to do, which is expand and grow jobs.

I see my colleagues are here to speak, so I am just going to take 1 minute to conclude.

I wish my colleagues to know that while this package is five major bills, there is an initiative that is not in bill form yet, but we are very serious about bringing it forward. It is going to include a provision for there to be a pool of capital available. It may be the way Senator CARDIN has envisioned it, which is direct loans from the SBA. It may be the way Senator LEVIN and Senator WARNER have been talking about, which is an idea to provide guaranteed loan pools to leverage private capital in the country. It may be something Bill Clinton spoke with us about yesterday, which is creating a dynamic new opportunity to retrofit public buildings in America and put people to work and use the savings in energy efficiency to pay back the loans so there is no new taxpayer money spent. It is leveraging the private sector to do two great things: provide jobs immediately and make more efficient every public building in America.

There is more we can do. So as the chairman, let me be very clear. I am very proud of this package. It is five bills. It has passed our committee almost unanimously. As we move this package to the floor, I hope we will get the same cooperation from Republican Members on this floor as we did from the Republican Members who serve on our committee. We have been very open, very sincere in our efforts to pull this package together, and we will continue to work in that good spirit. I hope we are met with that same feeling.

Two more things, briefly. I am probably not going to push to put in this bill a reform piece on credit cards to small businesses because it is not the jurisdiction of our committee; it is primarily the jurisdiction of the Banking Committee. However, I want this Senate to know I am on record today. Senator CARDIN says—and he is correct—how in the world are small businesses in America going to stay in business if they have to pay 15 and 20 percent interest rates? Could anybody tell me this? Is there any small business in America that thinks they can make money, hire people, and pay 20 percent interest rates? It is a shame. It is wrong. We are going to do something about small business credit card rates. I will tell my colleagues why. Because in the old days, not too long ago when the housing market was strong, which it is not today, Americans—who believe in the American dream because we tell them about it when they are 4 years old and they actually believe it

when they grow up—their house had \$200,000 or \$300,000 or \$400,000 or \$50,000 in equity. So when they wanted to start a business, they went to their banker and their banker said: How much equity do you have in your house? They said: \$50,000. They wrote them a check that day for \$20,000. They took that amount of money and they bought a stove and they started a business, maybe cooking a little scrambled eggs and ham.

Those days are over with. There is no equity in their homes anymore. When they go to their bank, they don't see a sign that says welcome—and I am not talking about community banks, I am talking about big banks that got all the money from us—they see a sign that says come back next year when things are better. So they have to then dig in their pocket and pull out their credit card. We have done them a great favor. We allow the companies to charge them not 3 percent, not 6 percent, not 10 percent but 20 percent.

I can't put that bill in this package, but I promise my colleagues it is coming. We cannot ask small business to pay 20 percent on their loans. Yes, we have to give them tax relief. But do my colleagues know what they need right now? They need borrowing relief.

So I am going to conclude with that. It is going to be a good package, and we are going to be very smart about how we put it forward. I know we have to take the tough things maybe separately so as to not detain this. But I am on record, and we are going to fight for it until we get it done.

I yield the floor. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

Mr. McCAIN. Mr. President, before I get into the main topic, I obviously appreciate the passion of the Senator from Louisiana. It is unfortunate that she and the majority on the other side refuse to vote for the most important thing we could have done immediately for small business; that is, give them payroll tax relief and take the money out of the stimulus package, so much of which is being wasted on issues such as Davis-Bacon and environmental impact statements. We ought to give small businesses payroll tax relief immediately.

#### DEMOCRACY AND HUMAN RIGHTS IN RUSSIA

Mr. McCAIN. Now I wish to take this opportunity to speak about the ongoing cause of human rights and democracy in Russia. These are not issues we hear much about from the current Russian Government, unfortunately, unless it is to denounce those Russian citizens who aspire to these universal values.

I had an opportunity the other week to meet with one of these brave Rus-

sian champions of human rights, human dignity, and freedom—a man by the name of Boris Nemtsov. I know several other people and other Members of Congress had a similar opportunity to speak with him. Mr. Nemtsov is but one of the many Russians who believe their country deserves a government that enhances and enshrines the human rights of its people in an inviolable rule of law, that allows citizens to hold their leaders accountable through a real Democratic process. This Saturday, March 20, many Russian human rights activists are planning public demonstrations all across their great country—I might add at great risk, since there is very little doubt that the Russian Government may even forcibly repress some of these public demonstrations, which will be peaceful. I asked Mr. Nemtsov what we in Washington could do to support the cause of human rights in Russia, and he simply said: "Speak up for it. Speak up for us."

It is my pleasure to do that today.

The Russian Government will surely take whatever I say here and similar things said by others and try to paint Russia's champions of human rights and democracy as puppets and proxies of the United States. Of course, they would say and do the exact same thing even if no Americans spoke up for the human rights of Russia's citizens. So we should refrain from internalizing the Kremlin's talking points, especially when Russians themselves are requesting our moral support for their cause. Because the fact is, this isn't about particular individuals or particular demonstrations held this week or any week in Russia. This is about universal values—values that we in the United States embody but do not own, values that should shape the conduct of every government, be it ours or Russia's or any other country's. When we see citizens of conviction seeking to hold their governments to the higher standard of human rights, we should speak up for them.

This is all the more necessary when we realize the obstacles those citizens face, especially in Russia. I wish to read a passage from the 2009 Country Report on Human Rights Practices, which was recently released by our State Department. Here is how they described the human rights situation in Russia:

Direct and indirect government interference in local and regional elections restricted the ability of citizens to change their government through free and fair elections. During the year, there were a number of high-profile killings of human rights activists by unknown persons, apparently for reasons related to their professional activities. There were numerous credible reports that law enforcement personnel engaged in physical abuse of subjects. Prison conditions were harsh and could be life threatening. Eight journalists, many of whom reported critically on the government, were killed during the year. With one exception the government failed to identify, arrest, or prosecute any suspects. Beating and intimidation of journalists remained a problem. The government limited freedom of assembly, and

police sometimes used violence to prevent groups from engaging in peaceful protest.

It will be very interesting to see how the police and the government treat these demonstrations that will take place across Russia on March 20. These conditions would be intolerable in any country, and this conduct would be unacceptable for any government. Clearly, Russia today is not the Soviet Union, neither in its treatment of Russia's people nor in its foreign policy. But I fear that may be damning with faint praise, and Russians themselves are right to hold their country and their government up to higher standards.

Russia is a great nation, and like all Americans of good will, I want Russia to be strong and successful. I want Russia's economy to be a vibrant source of wealth and opportunity for all Russians. I want Russia to play a proud and responsible role in world affairs. I will continue to affirm in public and in private that the best way for Russians to secure what they say they care about most—reduced corruption, a strengthened and equitable rule of law, economic modernization—is by nurturing a pluralistic and free civil society, by building independent and sustainable institutions of democracy, and by respecting the human rights of all.

I was happy to see that Russian political parties not aligned with the Kremlin actually won more seats in regional parliamentary elections this week. Perhaps this signals a growing recognition among Russians that the authoritarian tendencies of the Kremlin need to be rolled back through popular opposition. Perhaps the Russian Government could allow future elections at all levels to be freer and fairer. Perhaps. But there is still a long way to go for the cause of democracy in Russia, and I hope these small electoral gains only embolden democracy's defenders.

As we speak up for the rights of Russia's dissidents, we must do the same for the rights of Russia's neighbors as well—neighbors such as the country of Georgia. I visited Georgia in January, and I had a chance to travel to the so-called "administrative boundary line" with the breakaway region of Abkhazia. On the other side of that boundary line is sovereign Georgian territory occupied by Russian troops, as it has been since the 2008 invasion. When I was in Munich last month for an annual security conference, I heard several Russian officials speaking from the same script, alleging acts of aggression by Georgian forces against Russian peacekeepers—the same kind of rhetoric we heard before the 2008 invasion. This should give us all pause. I know Washington has a lot of foreign policy challenges at the moment, but we cannot forget Georgia and the support it deserves amid a continuing threat from its neighbor to the north.

A Russian government that better protects the human dignity of its people would be more inclined to deal with its neighbors in peace and mutual re-

spect. That is why we should all say a silent prayer and a public word of support for Russia's courageous human rights activists, as they make their voices heard this Saturday. These brave men and women want the best for their country. They want a government that is not only strong but just, peaceful, inclusive, and democratic. I urge Russia's leaders to recognize that peaceful champions of universal values are not a threat to Russia, and that groups such as this should not face the kinds of violence, repression, and intimidation that Russian authorities have used against similar demonstrators in the past. The eyes of the world will be watching.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 3467, AS MODIFIED

Mr. ROCKEFELLER. I ask unanimous consent that notwithstanding the adoption of amendment No. 3467, that it be modified with the changes at the desk.

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

The amendment (No. 3467), as modified, is as follows:

On page 130, after line 24, 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 day-night 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.

#### SIGNING AUTHORIZATION

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the majority leader be authorized to sign any duly enrolled bills or joint resolutions today, Wednesday, March 17, and Thursday, March 18.

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

#### RECESS

Mr. ROCKEFELLER. I ask unanimous consent that the Senate stand in recess until 2 p.m.

There being no objection, the Senate, at 12:27 p.m., recessed until 2 p.m. and reassembled when called to order by the Acting President pro tempore.

Mr. UDALL of Colorado. Mr. 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.

The PRESIDING OFFICER (Mr. INOUE). A quorum is present.

The majority leader is recognized.

Mr. REID. Thank you, Mr. President.

#### EXHIBITION OF ARTICLES OF IMPEACHMENT AGAINST G. THOMAS PORTEOUS, JR., JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

Mr. REID. Mr. President, I ask unanimous consent that the Secretary inform the House of Representatives that the Senate is ready to receive the managers appointed by the House for the purpose of exhibiting Articles of Impeachment against G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana, agreeably to the notice communicated to the Senate, and at the hour of 2 p.m., today, Wednesday, March 17, 2010, the Senate will receive the honorable managers on the part of the House of Representatives in order that they may present and exhibit the said Articles of Impeachment against the said G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana.

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

Mr. REID. Mr. President, I ask unanimous consent that the following counsel and staff of the House of Representatives be permitted the privileges of the floor during the proceedings with respect to the trial of the impeachment of Judge Porteous. They are as follows: Danielle Brown, Allison Halataei, Alan Baron, Harry Damelin, Mark Dubester, Kirsten Konar, Jessica Klein, Branden Ritchie, Michael Len, Phil Tahtakran, Ryan Clough, and Elisabeth Stein.

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

The Senate will be in order.

I will now call upon the Secretary for the majority.

The Secretary to the majority, Lula J. Davis, announced the presence of the House managers, as follows:

Mr. President, I announce the presence of the managers on the part of the House of Representatives to conduct proceedings on behalf of the House concerning the impeachment of G. Thomas

Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana.

The PRESIDING OFFICER. The managers on the part of the House will be received and assigned their seats.

The managers (Mr. SCHIFF, Ms. ZOE LOFGREN of California, Mr. JOHNSON of Georgia, Mr. GOODLATTE, and Mr. SENBRENNER) were thereupon escorted by the Sergeant at Arms of the Senate, Terrance W. Gainer, to the well of the Senate.

The PRESIDING OFFICER. The Sergeant at Arms will make a proclamation.

The Sergeant at Arms, Terrance W. Gainer, made the proclamation, as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States Articles of Impeachment against G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana.

The PRESIDING OFFICER. The managers on the part of the House will proceed.

Mr. Manager SCHIFF. Mr. President, the managers on the part of the House of Representatives are here present and ready to present the Articles of Impeachment, which have been preferred by the House of Representatives against G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana.

The House adopted the following resolution which, with the permission of the President of the Senate, I will read:

H. RES. 1165

*Resolved*, That Mr. Schiff, Ms. Zoe Lofgren of California, Mr. Johnson of Georgia, Mr. Goodlatte, and Mr. Sensenbrenner are appointed managers on the part of the House to conduct the trial of the impeachment of G. Thomas Porteous, Jr., a Judge for the United States District Court for the Eastern District of Louisiana, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers on the part of the House may exhibit the articles of impeachment to the Senate and take all other actions necessary in connection with preparation for, and conduct of, the trial, which may include the following:

(1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under House Resolution 15, One Hundred Eleventh Congress, agreed to January 13, 2009, or any other applicable expense resolution on vouchers approved by the Chairman of the Committee on the Judiciary.

(2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they consider necessary.

NANCY PELOSI,

*Speaker of the House of Representatives.*

With the permission of the President of the Senate, I will now read the Articles of Impeachment.

H. RES. 1031

*Resolved*, That G. Thomas Porteous, Jr., a judge of the United States District Court for the Eastern District of Louisiana, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against G. Thomas Porteous, Jr., a judge in the United States District Court for the Eastern District of Louisiana, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

#### ARTICLE I

G. Thomas Porteous, Jr., while a Federal judge of the United States District Court for the Eastern District of Louisiana, engaged in a pattern of conduct that is incompatible with the trust and confidence placed in him as a Federal judge, as follows:

Judge Porteous, while presiding as a United States district judge in Lifemark Hospitals of Louisiana, Inc. v. Liljeberg Enterprises, denied a motion to recuse himself from the case, despite the fact that he had a corrupt financial relationship with the law firm of Amato & Creely, P.C. which had entered the case to represent Liljeberg. In denying the motion to recuse, and in contravention of clear canons of judicial ethics, Judge Porteous failed to disclose that beginning in or about the late 1980s while he was a State court judge in the 24th Judicial District Court in the State of Louisiana, he engaged in a corrupt scheme with attorneys, Jacob Amato, Jr., and Robert Creely, whereby Judge Porteous appointed Amato's law partner as a "curator" in hundreds of cases and thereafter requested and accepted from Amato & Creely a portion of the curatorship fees which had been paid to the firm. During the period of this scheme, the fees received by Amato & Creely amounted to approximately \$40,000, and the amounts paid by Amato & Creely to Judge Porteous amounted to approximately \$20,000.

Judge Porteous also made intentionally misleading statements at the recusal hearing intended to minimize the extent of his personal relationship with the two attorneys. In so doing, and in failing to disclose to Lifemark and its counsel the true circumstances of his relationship with the Amato & Creely law firm, Judge Porteous deprived the Fifth Circuit Court of Appeals of critical information for its review of a petition for a writ of mandamus, which sought to overrule Judge Porteous's denial of the recusal motion. His conduct deprived the parties and the public of the right to the honest services of his office.

Judge Porteous also engaged in corrupt conduct after the Lifemark v. Liljeberg bench trial, and while he had the case under advisement, in that he solicited and accepted things of value from both Amato and his law partner Creely, including a payment of thousands of dollars in cash. Thereafter, and without disclosing his corrupt relationship with the attorneys of Amato & Creely PLC or his receipt from them of cash and other things of value, Judge Porteous ruled in favor of their client, Liljeberg.

By virtue of this corrupt relationship and his conduct as a Federal judge, Judge Porteous brought his court into scandal and disrepute, prejudiced public respect for, and confidence in, the Federal judiciary, and demonstrated that he is unfit for the office of Federal judge.

Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

#### ARTICLE II

G. Thomas Porteous, Jr., engaged in a longstanding pattern of corrupt conduct that demonstrates his unfitness to serve as a United States District Court Judge. That conduct included the following: Beginning in or about the late 1980s while he was a State court judge in the 24th Judicial District Court in the State of Louisiana, and continuing while he was a Federal judge in the United States District Court for the Eastern District of Louisiana, Judge Porteous engaged in a corrupt relationship with bail bondsman Louis M. Marcotte, III, and his sister Lori Marcotte. As part of this corrupt relationship, Judge Porteous solicited and accepted numerous things of value, including meals, trips, home repairs, and car repairs, for his personal use and benefit, while at the same time taking official actions that benefited the Marcottes. These official actions by Judge Porteous included, while on the State bench, setting, reducing, and splitting bonds as requested by the Marcottes, and improperly setting aside or expunging felony convictions for two Marcotte employees (in one case after Judge Porteous had been confirmed by the Senate but before being sworn in as a Federal judge). In addition, both while on the State bench and on the Federal bench, Judge Porteous used the power and prestige of his office to assist the Marcottes in forming relationships with State judicial officers and individuals important to the Marcottes' business. As Judge Porteous well knew and understood, Louis Marcotte also made false statements to the Federal Bureau of Investigation in an effort to assist Judge Porteous in being appointed to the Federal bench.

Accordingly, Judge G. Thomas Porteous, Jr., has engaged in conduct so utterly lacking in honesty and integrity that he is guilty of high crimes and misdemeanors, is unfit to hold the office of Federal judge, and should be removed from office.

#### ARTICLE III

Beginning in or about March 2001 and continuing through about July 2004, while a Federal judge in the United States District Court for the Eastern District of Louisiana, G. Thomas Porteous, Jr., engaged in a pattern of conduct inconsistent with the trust and confidence placed in him as a Federal judge by knowingly and intentionally making material false statements and representations under penalty of perjury related to his personal bankruptcy filing and by repeatedly violating a court order in his bankruptcy case. Judge Porteous did so by—

(1) using a false name and a post office box address to conceal his identity as the debtor in the case;

(2) concealing assets;

(3) concealing preferential payments to certain creditors;

(4) concealing gambling losses and other gambling debts; and

(5) incurring new debts while the case was pending, in violation of the bankruptcy court's order.

In doing so, Judge Porteous brought his court into scandal and disrepute, prejudiced public respect for and confidence in the Federal judiciary, and demonstrated that he is unfit for the office of Federal judge.

Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

## ARTICLE IV

In 1994, in connection with his nomination to be a judge of the United States District Court for the Eastern District of Louisiana, G. Thomas Porteous, Jr., knowingly made material false statements about his past to both the United States Senate and to the Federal Bureau of Investigation in order to obtain the office of United States District Court Judge. These false statements included the following:

(1) On his Supplemental SF-86, Judge Porteous was asked if there was anything in his personal life that could be used by someone to coerce or blackmail him, or if there was anything in his life that could cause an embarrassment to Judge Porteous or the President if publicly known. Judge Porteous answered "no" to this question and signed the form under the warning that a false statement was punishable by law.

(2) During his background check, Judge Porteous falsely told the Federal Bureau of Investigation on two separate occasions that he was not concealing any activity or conduct that could be used to influence, pressure, coerce, or compromise him in any way or that would impact negatively on his character, reputation, judgment, or discretion.

(3) On the Senate Judiciary Committee's "Questionnaire for Judicial Nominees", Judge Porteous was asked whether any unfavorable information existed that could affect his nomination. Judge Porteous answered that, to the best of his knowledge, he did "not know of any unfavorable information that may affect [his] nomination". Judge Porteous signed that questionnaire by swearing that "the information provided in this statement is, to the best of my knowledge, true and accurate".

However, in truth and in fact, as Judge Porteous then well knew, each of these answers was materially false because Judge Porteous had engaged in a corrupt relationship with the law firm Amato & Creely, whereby Judge Porteous appointed Creely as a "curator" in hundreds of cases and thereafter requested and accepted from Amato & Creely a portion of the curatorship fees which had been paid to the firm and also had engaged in a corrupt relationship with Louis and Lori Marcotte, whereby Judge Porteous solicited and accepted numerous things of value, including meals, trips, home repairs, and car repairs, for his personal use and benefit, while at the same time taking official actions that benefitted the Marcottes. As Judge Porteous well knew and understood, Louis Marcotte also made false statements to the Federal Bureau of Investigation in an effort to assist Judge Porteous in being appointed to the Federal bench. Judge Porteous's failure to disclose these corrupt relationships deprived the United States Senate and the public of information that would have had a material impact on his confirmation.

Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

NANCY PELOSI,

*Speaker of the House of Representatives.*

Mr. President, the House of Representatives by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles of accusation or impeachment against the said G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana, and also of replying to his answers which he shall make unto the articles preferred against him, and of offering proof to the same and every part thereof, and to all and every other arti-

cle of accusation or impeachment which shall be exhibited by them as the case shall require, do demand that the said G. Thomas Porteous, Jr., may be put to answer the misdemeanors in office which have been charged against him in the articles which have been exhibited to the Senate, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

Mr. President, the managers on the part of the House of Representatives, by the adoption of the Articles of Impeachment which have just been read to the Senate, do now demand that the Senate take order for the appearance of the said G. Thomas Porteous, Jr., to answer said impeachment and do now demand his conviction and appropriate judgment thereon.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, at this time the oath should be administered in conformance with article I, section 3, clause 6 of the Constitution of the United States and the Senate's impeachment rules. I move that the Senator from Kentucky, Mr. MCCONNELL, be designated by the Senate to administer the oath to the Presiding Officer of the Senate, the Senator from Hawaii, Mr. INOUE.

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

Mr. MCCONNELL. Do you solemnly swear that in all things appertaining to the trial of the impeachment of G. Thomas Porteous Jr., Judge of the United States District Court for the Eastern District of Louisiana, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

Mr. INOUE. I do.

Mr. REID. Mr. President, the oath shall now be administered by the Presiding Officer to all Senators. This is an appropriate time for any Senator who has cause to be excused from service in this impeachment to make that fact known.

If there is no Senator who desires to be excused, I move that the Presiding Officer administer the oath to Members of the Senate.

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

Senators shall now be sworn. Will Senators rise and raise your hand.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of G. Thomas Porteous, Jr., Judge of the United States District Court for the Eastern District of Louisiana, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

SENATORS: I do.

The following named Senators are recorded as having subscribed to the oath this day:

Daniel K. Akaka, Lamar Alexander, John Barrasso, Max Baucus, Evan Bayh, Mark Begich, Michael Bennet, Jeff Bingaman, Christopher S. Bond, Bar-

bara Boxer, Scott Brown of Massachusetts, Sherrod Brown of Ohio, Sam Brownback, Jim Bunning, Richard Burr, Roland W. Burris, Maria Cantwell, Benjamin L. Cardin, Thomas R. Carper, Robert P. Casey, Jr., Saxby Chambliss, Tom Coburn, Thad Cochran, Susan M. Collins, Kent Conrad, Bob Corker, John Cornyn, Mike Crapo, Jim DeMint, Byron L. Dorgan, Richard Durbin, John Ensign, Michael B. Enzi, Russell D. Feingold, Dianne Feinstein, Al Franken, Kirsten E. Gillibrand, Lindsey Graham, Chuck Grassley, Judd Gregg, Kay R. Hagan, Tom Harkin, Orrin G. Hatch, Kay Bailey Hutchison, James M. Inhofe, Daniel K. Inouye, Johnny Isakson, Mike Johanns, Tim Johnson, Edward E. Kaufman, John F. Kerry, Amy Klobuchar, Herb Kohl, Jon Kyl, Mary L. Landrieu, Frank R. Lautenberg, George S. LeMieux, Carl Levin, Joseph I. Lieberman, Blanche L. Lincoln, Richard G. Lugar, John McCain, Claire McCaskill, Mitch McConnell, Robert Menendez, Jeff Merkley, Barbara A. Mikulski, Lisa Murkowski, Patty Murray, Ben Nelson of Nebraska, Bill Nelson of Florida, Mark L. Pryor, Jack Reed, Harry Reid, James E. Risch, Pat Roberts, John D. Rockefeller IV, Bernard Sanders, Charles E. Schumer, Jeff Sessions, Jeanne Shaheen, Richard C. Shelby, Olympia J. Snowe, Arlen Specter, Debbie Stabenow, Jon Tester, John Thune, Mark Udall of Colorado, Tom Udall of New Mexico, David Vitter, George V. Voinovich, Mark R. Warner, Jim Webb, Sheldon Whitehouse, Roger F. Wicker.

Mr. REID. Mr. President, any Senator who was not in the Senate Chamber at the time the oath was administered to the other Senators will make that fact known to the Chair so that the oath may be administered as soon as possible to that Senator. The Secretary will note the names of the Senators who have been sworn and will present to them for signing a book, which will be the Senate's permanent record of the administration of the oath. I will remind all Senators who were administered this oath that they must now sign the oath book, which is at the desk, before leaving the Chamber.

#### ISSUANCE OF A SUMMONS AND FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST G. THOMAS PORTEOUS, JR.

Mr. REID. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. MCCONNELL, I send to the desk a resolution that provides for the issuance of a summons to Judge G. Thomas Porteous, Jr., for Judge Porteous's answer to the Articles of Impeachment against him, and for a replication by the House, and ask for its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 457) to provide for issuance of a summons and for related procedures concerning the articles of impeachment against G. Thomas Porteous, Jr.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 457) was agreed to, as follows:

S. RES. 457

*Resolved*, That a summons shall be issued which commands G. Thomas Porteous, Jr. to file with the Secretary of the Senate an answer to the articles of impeachment no later than April 7, 2010, and thereafter to abide by, obey, and perform such orders, directions, and judgments as the Senate shall make in the premises, according to the Constitution and laws of the United States.

SEC. 2. The Sergeant at Arms is authorized to utilize the services of the Deputy Sergeant at Arms or another employee of the Senate in serving the summons.

SEC. 3. The Secretary shall notify the House of Representatives of the filing of the answer and shall provide a copy of the answer to the House.

SEC. 4. The Managers on the part of the House may file with the Secretary of the Senate a replication no later than April 21, 2010.

SEC. 5. The Secretary shall notify counsel for G. Thomas Porteous, Jr. of the filing of a replication, and shall provide counsel with a copy.

SEC. 6. The Secretary shall provide the answer and the replication, if any, to the Presiding Officer of the Senate on the first day the Senate is in session after the Secretary receives them, and the Presiding Officer shall cause the answer and replication, if any, to be printed in the Senate Journal and in the Congressional Record. If a timely answer has not been filed, the Presiding Officer shall cause a plea of not guilty to be entered.

SEC. 7. The articles of impeachment, the answer, and the replication, if any, together with the provisions of the Constitution on impeachment, and the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, shall be printed under the direction of the Secretary as a Senate document.

SEC. 8. The provisions of this resolution shall govern notwithstanding any provisions to the contrary in the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials.

SEC. 9. The Secretary shall notify the House of Representatives of this resolution.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

**APPOINTMENT OF A COMMITTEE TO RECEIVE AND TO REPORT EVIDENCE WITH RESPECT TO ARTICLES OF IMPEACHMENT AGAINST JUDGE G. THOMAS PORTEOUS, JR.**

Mr. REID. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. MCCONNELL, I send a resolution to the desk on the appointment of an impeachment trial committee and ask for its immediate consideration.

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

The legislative clerk read as follows:

A resolution (S. Res. 458) to provide for the appointment of a committee to receive and

to report evidence with respect to articles of impeachment against Judge G. Thomas Porteous, Jr.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 458) was agreed to, as follows:

S. RES. 458

*Resolved*, That pursuant to Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the Presiding Officer shall appoint a committee of twelve senators to perform the duties and to exercise the powers provided for in the rule.

SEC. 2. The majority and minority leader shall each recommend six members, including a chairman and vice chairman, respectively, to the Presiding Officer for appointment to the committee.

SEC. 3. The committee shall be deemed to be a standing committee of the Senate for the purpose of reporting to the Senate resolutions for the criminal or civil enforcement of the committee's subpoenas or orders, and for the purpose of printing reports, hearings, and other documents for submission to the Senate under Rule XI.

SEC. 4. During proceedings conducted under Rule XI the chairman of the committee is authorized to waive the requirement under the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials that questions by a Senator to a witness, a manager, or counsel shall be reduced to writing and put by the Presiding Officer.

SEC. 5. In addition to a certified copy of the transcript of the proceedings and testimony had and given before it, the committee is authorized to report to the Senate a statement of facts that are uncontested and a summary, with appropriate references to the record, of evidence that the parties have introduced on contested issues of fact.

SEC. 6(a). The actual and necessary expenses of the committee, including the employment of staff at an annual rate of pay, and the employment of consultants with prior approval of the Committee on Rules and Administration at a rate not to exceed the maximum daily rate for a standing committee of the Senate, shall be paid from the contingent fund of the Senate from the appropriation account "Miscellaneous Items" upon vouchers approved by the chairman of the committee, except that no voucher shall be required to pay the salary of any employee who is compensated at an annual rate of pay.

(b). In carrying out its powers, duties, and functions under this resolution, the committee is authorized, in its discretion and with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

SEC. 7. The committee appointed pursuant to section one of this resolution shall terminate no later than 60 days after the pronouncement of judgment by the Senate on the articles of impeachment.

SEC. 8. The Secretary shall notify the House of Representatives and counsel for Judge G. Thomas Porteous, Jr. of this resolution.

Mr. REID. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCONNELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**APPOINTMENT OF IMPEACHMENT TRIAL COMMITTEE**

Mr. REID. Mr. President, in accordance with the resolution on the appointment of an impeachment trial committee, I recommend to the Chair the appointment of Senators MCCASKILL, as chair, KLOBUCHAR, WHITEHOUSE, UDALL of New Mexico, SHAHEEN, and KAUFMAN.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, in accordance with the resolution on the appointment of an impeachment trial committee, I recommend to the Chair the appointment of Senator HATCH, who will serve as vice chairman, and Senators BARRASSO, DEMINT, JOHANNNS, RISCH, and WICKER.

The PRESIDING OFFICER. Pursuant to the resolution on the appointment of an impeachment trial committee and impeachment rule XI, the Chair appoints upon the recommendation of the two leaders the following Senators to be members of the committee to receive and report evidence in the impeachment of Judge G. Thomas Porteous, Jr.: Senators MCCASKILL (chairman), KLOBUCHAR, WHITEHOUSE, UDALL of New Mexico, SHAHEEN, KAUFMAN, HATCH (vice chairman), BARRASSO, DEMINT, JOHANNNS, RISCH, and WICKER. The Senate will take further proper order and notify the House of Representatives and counsel for Judge Porteous.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

**TAX ON BONUSES RECEIVED FROM CERTAIN TARP RECIPIENTS—Resumed**

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

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.

McCain/Bayh amendment No. 3475 (to amendment No. 3452), to prohibit earmarks in years in which there is a deficit.

McCain amendment No. 3527 (to amendment No. 3452), 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.

McCain amendment No. 3528 (to amendment No. 3452), 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.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, Senator ROCKEFELLER will be back on the floor shortly. We are on the FAA reauthorization bill. This is the fourth day in the Senate that we have been trying to pass the FAA reauthorization bill. We have accepted many amendments. We have had many amendments offered that have nothing at all to do with this legislation. I understand that. I think we voted on three or four of them last night. But the process of trying to get something through the Senate these days is slow and difficult. It is a little like watching paint dry to see activity on the floor of the Senate. We are trying very hard to do this.

This is not and should not be a controversial bill. Every American who gets on a commercial airplane in this country has a stake in this bill. This bill includes modernization of the air traffic control system which will allow people to fly in the skies more safely, more direct routes, save energy, and save pollution.

Modernization of the air traffic control system, to go from ground-based radar to a GPS navigation system—we should have done that a while ago. We have not. We need to catch up with the Europeans and others. We need to move with some dispatch.

This bill should have been done long ago, but it has been extended 11 times.

Ms. KLOBUCHAR. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Ms. KLOBUCHAR. Mr. President, I serve on the Commerce Committee with Senator DORGAN. I thank him for his leadership.

During the time we waited and dithered and didn't get this done—not you but others—have other countries modernized their air traffic control systems?

Mr. DORGAN. Other countries are making good progress on this, going to a GPS system. GPS is not a new technology, as many of us know. You see many vehicles, automobiles around town using a GPS to navigate. You have people using GPS on their cell phones. But on a jet airliner flying across the country, hauling a couple of hundred people behind the cockpit, they are using World War II technology, ground-based radar for navigation, not GPS, which is the modernization approach.

This is called NextGen, modernizing the air traffic control system. Europe is moving on it, other parts of the world are moving on it, and we need to move. This is about safety. It is about modernizing the system. But more than that, it is about investing in the

infrastructure for aviation in the country, building the airports and the runways. It is about the issue of the passenger bill of rights, which is in this bill, saying to the airlines: Here are the new rules. You can't have somebody in an airplane 6 or 7 hours sitting on a runway someplace; 3 hours and then you have to bring them back to the gate. I know some do not like that, but that is the passenger bill of rights, giving passengers some rights as well.

I have spoken at length about this legislation, as has Senator ROCKEFELLER. I guess our hope would be that, if there are those who have additional amendments and wish to debate them, they might come to the floor or engage in the discussion on the floor so we can get this piece of legislation passed. It makes no sense for us to continue to talk and to continue to wait and not pass legislation when we have so much ahead of us to do.

#### COBELL SETTLEMENT

I want to mention a couple of other issues we need to address while I am waiting. One is the proposed settlement of the Cobell v. Salazar litigation. The parties to the Cobell settlement asked Congress to pass legislation approving the settlement by April 16th. It needs to be done by April 16th or the parties may return to litigation.

Let me tell you what the Cobell settlement is. It is about American Indians, the people who were here first in this country, the first Americans. American Indians ceded certain property as a result of treaties and other agreements, and reserved lands for their communities. The federal government promised to manage these reservations and hold the lands in trust. Well, over the last century, Indians watched as timber companies would come in and produce timber from those lands, mineral companies would come in and produce minerals, and drill for oil on those lands. All the while, the government was managing these lands and holding monies earned from that land in trust for the Indians.

Then the Indians asked the question: What has happened to our money? We see all these timber, grazing, and mineral activities going on and we are supposed to get money from these lands—that the government is holding in trust—but the money never quite shows up.

The Cobell case is named after a remarkable woman, Elouise Cobell, from Montana. She is an American Indian, a member of the Blackfeet Nation, and a banker. She filed a lawsuit against the United States and she asked for one thing. She said to the Federal government: Give me an accounting of the monies that you collected from my lands, my lands that you held and managed in trust for me. And do the same for all other Native Americans.

The fact is, nobody knew how much money was owed her. When they took a look at the records that the Federal government had, and held for Indian property and income, it was shameful.

For example, Mary Fish, an Oklahoma Indian, lived on her land in a very small, humble house, and she lived next to an oil well pump that was constantly pumping oil off of her land. She received just a pittance of money from that oil. Where did the money go? Who would account for that money? Why is it that Mary lived in such a humble manner, in a very small home, when on her land, an oil well was producing oil. Why is it that the money being managed by the Federal Government somehow never got to Mary?

When the lawsuit was filed by Elouise Cobell, the judges in the Federal courts asked: Where are the trust records for all these timber, grazing, and mineral activities?

Here is what they found: the Federal Government could not produce the records necessary for an accounting. For example, there were 162 boxes of case-related documents that were shredded after the trial began—a procedure that the U.S. Justice Department lawyers withheld from the court for 3 months. Other records were in Louisiana, and in a rat-infested warehouse in New Mexico.

Still more records were in North Dakota, and scattered in sheds across the country. I have photographs of what they saw when they opened up the warehouses in North Dakota. You can see piles of worn and damaged boxes of what were supposed to have been records. And, this is how the Federal Government cared for the information that was going to tell American Indians how their trust lands were used. It is unbelievable.

After years of litigation, the Parties in the Cobell case have reached a \$3.4 billion settlement. The settlement needs to be approved by Congress, and the parties have an April 16th deadline for Congress to approve the settlement. I have mentioned this on the floor of the Senate before. This Congress has a responsibility to proceed by the April 16th deadline to avoid further, unnecessary litigation.

The President, the Secretary of Interior—whom I commend, by the way, who negotiated this settlement—have asked us to get this done, and we have a responsibility to get this done.

#### DISABILITY CLAIMS

I also have another point which we will get to in a short period of time on appropriations. I will mention those Americans who have filed disability claims under Social Security and are now waiting over 16 months to have the Federal Government determine whether their claims are valid, waiting 490 days after a claim is filed. That is pretty unbelievable to me. This Congress has included about \$2.5 billion of additional funding for the Social Security Administration in the last 4 to 5 years. The expectation was that we would reduce the giant backlog that existed of cases, disability claims filed by people who have paid for this insurance.

American people pay for disability insurance out of their paycheck under

OASDI. When someone who is disabled files a claim in this country, on average it takes 491 days to process it. That, after we have given more than \$2.5 billion in increased funding to the Social Security Administration.

Precious little progress has been made. They say it used to be 514 days, now it is 491 days. That is not much progress as far as I am concerned if you are disabled and you are expecting to file a claim and have a claim processed in a reasonable period of time.

In my State there are 2,800 claims that are awaiting action. The number of administrative law judges—we have two vacancies now out of five. One gave his notice almost a year ago and has not been replaced.

None of this makes any sense to me. Congress should expect, of an agency like this, especially when you get \$2.5 billion in extra funding over five years, to understand why has no progress been made. I sent a letter to the head of Social Security asking what happened to the \$2.5 billion. On the appropriations side, I want some understanding of what happened to that money and why significant progress has not been made in these disability claims that resulted from the funding given the administration by the Congress.

Let me withhold for a moment and yield the floor so my colleague can take the floor with an agreement.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

UNANIMOUS CONSENT AGREEMENT  
EXECUTIVE CALENDAR

Mr. WHITEHOUSE. As in executive session I ask unanimous consent that today at 3 p.m. the Senate proceed to executive session to consider Calendar No. 653, the nomination of O. Rogeriee Thompson to be a U.S. circuit judge for the First Circuit, and there be up to 30 minutes of debate with respect to the nomination with the time equally divided and controlled between Senators WHITEHOUSE and SESSIONS or their designees; with Senator REED of Rhode Island controlling up to 5 minutes; that at 3:30 p.m. the Senate proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid on the table and any statements relating to the nomination be printed in the RECORD as if read, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

Mr. WHITEHOUSE. I thank the distinguished Senator for yielding for that unanimous consent.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, In the remaining couple of minutes, let me say it is my hope and the hope of Senators ROCKEFELLER and HUTCHISON that we will be able to make progress and complete the FAA reauthorization bill.

This is the fourth day. We have seen so many interminable delays in the Senate. Let's not delay legislation that has bipartisan support, that deals with the issue of air safety in this country, and has so many important provisions. Let's not at this point decide to delay this, of all pieces of legislation, something that should have been done long ago and has had 11 extensions instead of a reauthorization bill, when we finally have a bipartisan reauthorization bill brought to the floor of the Senate.

It is my hope if we are going to get cooperation on anything, at least we could expect it on this piece of legislation. My hope would be in the half-hour debate—I guess 1-hour debate and subsequent vote on the judge, we might make some progress in seeing whether we could get cooperation to be able to complete this bill today.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Will the Senator withhold the request?

Mr. DORGAN. I will withhold.

EXECUTIVE SESSION

NOMINATION OF O. ROGERIEE THOMPSON TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will go to executive session. The clerk will report the nomination.

The legislative clerk read the nomination of O. Rogeriee Thompson, of Rhode Island, to be United States Circuit Judge for the First Circuit.

Mr. LEAHY. Mr. President, I congratulate Justice Thompson on what should be her confirmation by the Senate today as a judge on the United States Court of Appeals for the First Circuit. President Obama has made another outstanding judicial nomination. The Senators from Rhode Island have worked tirelessly to bring this matter to conclusion with a Senate vote since her nomination was reported by the Senate Judiciary Committee 2 months ago.

It has been 2 weeks since the Senate has acted on any of the 18 judicial nominations approved by the Senate Judiciary Committee that are being stalled by Republican obstruction on the Senate Executive Calendar. It has been almost 4 months since I began publicly urging the Senate Republican leadership to abandon its strategy of obstruction and delay of the President's judicial nominees. Regrettably, their practices continue. Even though Justice Thompson is a well-respected judge who has more than two decades of experience on her State's courts, and whose nomination was reported by the Senate Judiciary Committee without a single dissenting vote, her nomination has been stuck on the Senate Executive Calendar for nearly 2 months. Jus-

tice Thompson's nomination is not the only one being stalled despite having been reported without opposition by the Senate Judiciary Committee. There are a dozen such nominations ready for consideration and confirmation that have been stalled without reason or explanation. They could and should all be considered and confirmed without further delay.

In addition there are another half dozen judicial nominees awaiting final consideration by the Senate that were reported with just a single, or a few, negative votes. Those should be debated and voted upon without more delay. If Republicans would enter into time agreements, they would be considered. We should not have to go through another filibuster and cloture vote like that on Judge Barbara Keenan of Virginia, whose nomination was stalled for 4 months and then approved 99 to 0. There was no reason for that delay. Yet it amounted to a Republican filibuster until it was finally ended 2 weeks ago by the majority leader and that Senate vote.

Just yesterday, more than a dozen Senators spoke about the delays and obstruction of the President's nominees. Many Senators spoke about the recent Republican filibuster of Judge Barbara Keenan. The Senator from Pennsylvania spoke about the nominee stalled since December to fill a Pennsylvania vacancy on the Third Circuit. The Senators from North Carolina and Maryland noted that two well-qualified nominees to vacancies on the Fourth Circuit remain stalled. And the Senator from Rhode Island, a hardworking member of the Judiciary Committee, spoke of the nomination on which we are finally being allowed to vote today, that of Justice Rogeriee Thompson.

When the Senate confirms Justice Thompson, we will be confirming the first African American to serve on the First Circuit, and only the second woman. She is a trailblazer and an extraordinary woman. She will be an outstanding Federal judge.

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. Only 17 of these have been confirmed. Justice Thompson's nomination will be the 18th. There are another five judicial nominations set to be reported by the Judiciary Committee this week, bringing the total awaiting final action by the Senate to 22.

Despite skyrocketing vacancies—now totaling over 100, more than 30 of which are “judicial emergencies”—we are far behind the pace for considering nominations set by the Democratic majority during President Bush's first 2 years in office. By this date during President Bush's first term, the Senate had confirmed 41 Federal circuit and district court nominations and there was only a single judicial nomination pending on the Senate's Executive Calendar. Only a single nomination was

pending. In stark contrast, to date the Senate has confirmed just 17 of President Obama's district and circuit court nominees, with an embarrassing backlog of 18 judicial nominations on the calendar awaiting Senate action. We are currently on pace to confirm fewer than 30 Federal circuit and district court nominees during this Congress, which would easily be the lowest in memory. We have to do far more to address this growing crisis of unfilled judicial vacancies.

The Republican strategy to stall, obstruct, and delay the Senate from considering President Obama's nominations is working, at great cost to the American people. Their failure to do their constitutional duty of considering the President's nominations is 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.

The refusal by Republicans to make progress considering judicial nominations is hard to understand given the work President Obama has done to reach across the aisle to work with Republican Senators in making judicial nominations. Unlike the often partisan and divisive picks of his predecessor, 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.

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. The nomination of Jane Stranch of Tennessee to the Sixth Circuit, endorsed by home State Republican Senator LAMAR ALEXANDER and reported by the committee with bipartisan support, has remained stalled on the calendar since last year. The nominations of Judge James A. Wynn and Albert Diaz of North Carolina to the Fourth Circuit both have Senator BURR's strong support and yet have remained on the calendar for more than 6 weeks. The list goes on.

President Obama has worked closely with home State Republican Senators, but Senate Republicans have still chosen to treat his nominees badly. Indeed, the demand for consultation with home State Senators was the purported basis for the threat from Senate Republicans to filibuster President Obama's judicial nominations before he had made a single one. They wrote in their March 2, 2009, letter to the Presi-

dent: "[I]f we are not consulted on, and approve of, a nominee from our states, the Republican Conference will be unable to support moving forward on that nominee." Yet despite the fact that they were consulted and that Senator LUGAR did approve, Senate Republicans insisted on filibustering Judge Hamilton's nomination. Despite consultation, there are still a dozen and one-half judicial nominations stalled on the Executive Calendar.

After Republican Senators pocket-filibustered more than 60 of President Clinton's judicial nominations, denying them even hearings and votes in committee and creating a vacancy crisis on the Federal bench, Democrats did not do the same to President Bush's nominees. We treated them much more fairly. We worked hard through 2001, even after 9/11 and the anthrax attacks, holding hearings even during Senate recess periods, in order to swiftly consider President Bush's nominees. That is why by this date in 2002 the Senate had confirmed 41 judicial nominees. By contrast the confirmation of Justice Thompson will be only the 18th Federal circuit or district court judge nominated by President Obama to be confirmed. At this date in March 2002 there was a single judicial nominee awaiting Senate consideration. By contrast, today there are 18 stacked up because Senate Republicans refuse to consent to their consideration.

Yet when Democrats refused to rubberstamp a handful of the most extreme, ideological, and divisive of President Bush's nominees—not the 60 nominations of President Clinton's that Senate Republicans pocket-filibustered, or the 18 we have stalled on the calendar right now—Republican Senators changed their tune, disavowed any responsibility for their obstruction of President Clinton's nominees, and contended that filibusters of judicial nominations were "unconstitutional" and "offensive." The Republican leadership of the Senate Judiciary Committee broke virtually every precedent and rule we had in order to force nominees through the committee, and the Republican leadership of the Senate sought to activate the "nuclear option" to break Senate rules and precedent in order to ram through each and every nominee.

Unfortunately, those same Republican Senators that once threatened to blow up the Senate unless every nominee received an up-or-down vote are now engaged in another attempt to abuse the rules of the Senate and undermine the democratic process. Republican Senators who just a few years ago insisted that "elections have consequences" have now made the use of filibusters, holds, and excessive procedural delays the new normal in the Senate in order to thwart our ability to make progress addressing issues that affect all Americans. Those who just a short time ago said that a majority vote is all that should be needed to

confirm a nomination, and that filibusters of nominations are unconstitutional, have reversed themselves and now employ every delaying tactic they can, imposing on the Senate a requirement to find 60 Senators to overcome a filibuster on issue after issue.

A bipartisan group of Senators joined together in 2005 to end that last attempt by Republican leadership to abuse the rules of the Senate by joining in a bipartisan memorandum of understanding to head off the "nuclear option" that the Republican Senate leadership was intent on activating. Those same Republican Senators who agreed in that memorandum of understanding that nominees should only be filibustered under "extraordinary circumstances," have abandoned all that they said they stood for by engaging in an effort to stall or prevent an up-or-down vote on nomination after nomination.

We saw that with their attempt to filibuster the nomination of Judge Hamilton. Just 2 weeks ago a Republican filibuster of Justice Barbara Keenan of Virginia to be a Fourth Circuit judge resulted from Senate Republicans refusing to agree to debate and vote on that nomination. 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. And that 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.

So why are Republicans so insistent on reversing themselves and applying new standards to halt our progress filling vacancies on the Federal courts? Why have they insisted on departing so radically from the standards set by the Democratic majority during the first two years of the Bush Administration when we confirmed 100 of President Bush's judicial nominations in 17 months? Why have they rejected President Obama's efforts to reach across the aisle and nominate well-qualified mainstream nominees? Why are they intent on constructing procedural hurdles to delay and deny up-or-down votes to nominee after nominee?

The American people should see this for what it is: More of the partisan, narrow, ideological tactics that Senate Republicans have been engaging in for decades as they try to pack the courts with ultraconservative judges. What is at stake for the American people are their rights, their access to the courts, and their ability to seek redress for wrongdoing.

For all the talk we heard about “judicial modesty” and “judicial restraint” from the nominees of President Bush at their confirmation hearings, we have seen Federal courts—most notably the Supreme Court—these last 5 years that has been anything but modest and restrained. Conservative activist judges are time and time again substituting their personal beliefs to the law and the judgment of elected officials.

That is what we saw in the recent decision by a narrow five-justice majority of the Supreme Court in *Citizens United v. Federal Election Commission*, a decision that gutted bipartisan laws enacted to protect the ability of individual Americans to participate in elections and not have their voices drowned out by corporations. Regrettably, that decision is only the latest example of the willingness of a narrow majority of the Supreme Court to render decisions from the bench to suit their own agenda.

The *Citizens United* decision reinforces the profound concern I have had about the real-world consequences of recent court decisions for hardworking Americans. On issues like equal pay for equal work; the power of Congress under the 14th and 15th amendments to pass civil rights laws like the Voting Rights Act; and issues thought to be long settled like the meaning of *Brown v. Board of Education*, the current conservative majority on the Supreme Court seems determined to accrue to itself the powers given by the Constitution to Congress and to rewrite long-established precedents. The lower courts must follow suit. Make no mistake, this is the product of years of work by Republicans catering to the far right to remake the courts and reshape the law from the bench.

Republican Senators who demanded up-or-down votes for even the most extreme and ideological nominees of a Republican President now balk at the consideration of well-qualified, mainstream nominees of a Democratic President. The many years Democratic Senators worked to be fairer to President Bush’s nominees than the Republican majority had been to President Clinton’s nominees have been cast aside and forgotten by the Republican minority.

Justice Thompson’s nomination is noncontroversial and should easily be confirmed. I urge the Senate also to take responsible action to consider the other 17 judicial nominations still awaiting a vote by the Senate. The Senate can more than double the total number of judicial nominations it has confirmed by considering not only Justice Thompson’s nomination but the other judicial nominees on the calendar. We should do that now, without more delay, without additional obstruction, to put us back on track. Senators should work together to do our jobs for the American people.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum and ask

unanimous consent that time be charged equally.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REED. Mr. President, shortly, we will have the honor and privilege, myself and Senator WHITEHOUSE, to join in supporting and confirming the nomination of Justice Rogeriee Thompson, who will be confirmed today to the First Circuit Court of Appeals.

Justice Thompson is an eminent member of our Rhode Island courts. She has been an Associate Justice of the Rhode Island Superior Court since 1997. She is a path breaker in many respects in terms of her talent, but also because she is the first woman of African-American descent to serve on the Rhode Island Superior Court. She will be the first African American to serve on the First Circuit Court of Appeals and only the second woman.

She has achieved these remarkable results because of her intellect, her character, her integrity, and her deep commitment to fairness and to justice. She is a remarkable woman. We are pleased and delighted that her nomination has been forwarded to us by the President. He has made a wise choice. Today, we will have the opportunity to consider the nomination and confirm her. She will do a remarkable job on the First Circuit Court of Appeals.

Originally, Justice Thompson was born in South Carolina, but she came to Rhode Island to attend Brown University. She earned her J.D. from the Boston University School of Law and began her career as a staff attorney at Rhode Island Legal Services.

So her progression to the First Circuit is one that has carried her a long way. I think it has included, very importantly, a strong commitment not just to the most fortunate in our country, but also to those who desperately need help and assistance.

She will bring that sense of fairness and decency to the First Circuit Court of Appeals. I urge all of my colleagues to support this worthy woman and her nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, the Senate is considering the nomination of O. Rogeriee Thompson to the United States Court of Appeals for the First Circuit. I join my distinguished senior colleague, Senator JACK REED, in applauding President Obama’s selection of this very talented nominee. Judge Thompson’s nomination has been an uncontroversial one and for good reason: She is a dedicated public

servant, a highly experienced and respected judge, and a credit to our home State of Rhode Island. I congratulate Judge Thompson on coming to this point in the process. I look forward to an uneventful confirmation vote in the next few moments.

I express to my colleagues my thorough confidence that she will have a distinguished career as a U.S. circuit court of appeals judge.

I also thank some of my colleagues. I am grateful to majority leader HARRY REID, to our chairman, PATRICK LEAHY, of the Judiciary Committee, and to Senators on the other side of the aisle, in particular Judiciary Committee Ranking Member SESSIONS, for clearing the path for us to vote on Judge Thompson’s nomination today. I also am grateful that my senior Senator, JACK REED, gave me the opportunity to assist him in identifying the best possible nominee to recommend to President Obama to serve on the first circuit. As my colleagues know, it has been a great honor to serve with Senator REED since coming to the Senate. This experience with him was another great privilege for which I am deeply grateful.

After the Senate’s action today, after a lifetime of achievement, Judge Thompson will make history as the first African American and only the second woman to serve on the U.S. Court of Appeals for the First Circuit. This will not be the first barrier broken by Judge Thompson, as she was the first African-American woman on each of the Rhode Island courts on which she has served. These were great moments in the history of our State. Her arrival will be a wonderful addition in the history of the first circuit. Judge Thompson has given our State 21 years of distinguished judicial service, first as an associate judge on the Rhode Island district court and subsequently as an associate justice on the Rhode Island superior court.

Judge Thompson has long scrupulously adhered to the proper role of a judge, respecting the role of the legislature as the voice of the people, deciding cases based on the law and the facts, not prejudging any case but listening to every party before her, respecting precedent and limiting herself to the issues properly before the court. Her courtroom deservedly has come to be known as a place in which every party can expect a fair hearing. I know she will earn the same reputation for fairness and excellence as a judge on the first circuit.

I should add that Judge Thompson has also made great contributions to our home State of Rhode Island outside of the courtroom. She has chaired or been a member of important court committees that have improved the quality of justice in our State. She has given back to her alma mater, Brown University, by serving as a trustee of that great university. She also has provided mentoring to innumerable students, given her time to countless law

school programs, and served on the boards of valuable and important non-profit groups such as the Rhode Island Children's Crusade for Higher Education, a board on which I was privileged to serve with Judge Thompson. Her willingness to give back to our Rhode Island community is characteristic of her entire family. Judge Thompson's husband, Bill Clifton, is a judge on the Rhode Island district court. Her brother-in-law, Bill's brother, Edward Clifton, is a judge on the Rhode Island superior court. It is a very judicial family.

I had the occasion to appear before Judge Clifton. He was the first judge when we began our Rhode Island drug court, when I was attorney general. I have had firsthand experience of his qualities as well. We in Rhode Island are very fortunate to be blessed by the service and excellence of this family. I am sure this is a very proud day for them all. I extend my best wishes and my congratulations.

I anticipate we will have a strong vote in favor of Judge Thompson. She passed without incident or opposition through the review of the Judiciary Committee. There were no questions raised about her at her hearing. The voice vote in her favor was unanimous. The track record to date is an indication of a likely resounding confirmation. I might add, if that happens, that is yet another evidence of how talented she is and how well she deserves this seat on the Court of Appeals for the First Circuit. It is an important circuit for our State. It is a very distinguished court. It has had very distinguished Rhode Islanders sit on it in the past. A friend of Senator JACK REED's and mine, the honorable Bruce Selya, has served on that court with immense distinction for many years. So there is an important Rhode Island tradition on the first circuit.

I can assure all of my colleagues in the Senate that as a justice of this court, O. Rogeriee Thompson will discharge all of her duties with the greatest of distinction.

I yield the floor, suggest the absence of a quorum, and ask unanimous consent that the time be divided between the minority and majority.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. 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. WHITEHOUSE. Mr. President, I ask for the yeas and nays on the nomination of Judge Thompson.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of O. Rogeriee Thompson, of Rhode Island, to be United States Circuit Judge for the First Circuit?

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 result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 56 Ex.]

YEAS—98

Akaka	Enzi	Menendez
Alexander	Feingold	Merkley
Barrasso	Feinstein	Mikulski
Baucus	Franken	Murkowski
Bayh	Gillibrand	Murray
Begich	Graham	Nelson (NE)
Bennet	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reed
Boxer	Harkin	Reid
Brown (MA)	Hatch	Risch
Brown (OH)	Hutchison	Roberts
Brownback	Inhofe	Rockefeller
Bunning	Inouye	Sanders
Burr	Isakson	Schumer
Burriss	Johanns	Sessions
Cantwell	Johnson	Shaheen
Cardin	Kaufman	Shelby
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Coburn	Kyl	Tester
Cochran	Landrieu	Thune
Collins	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Corker	LeMieux	Vitter
Cornyn	Levin	Voinovich
Crapo	Lieberman	Warner
DeMint	Lincoln	Webb
Dodd	Lugar	Whitehouse
Dorgan	McCain	Wicker
Durbin	McCaskey	Wyden
Ensign	McConnell	

NOT VOTING—2

Bennett

Byrd

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

#### TAX ON BONUSSES RECEIVED FROM CERTAIN TARP RECIPIENTS—Continued

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I want people to understand that the Federal aviation reauthorization process is moving slowly but steadily. We take several steps forward but none backward. Yesterday we approved 14 amendments. There was a tremendous amount of work done by the staff to work those out. We have another large group we hope to be able to do this

afternoon. So large chunks of the bill are actually getting done. Then, we have a number of controversial amendments, or potentially controversial, and we are in the process of getting those locked down so the Presiding Officer can pronounce a unanimous consent agreement with 2 minutes equally divided.

I yield the floor to the Senator from Texas.

Mrs. HUTCHISON. Mr. President, my distinguished colleague and chairman of the committee and I are working very hard to clear further amendments as well as get a vote on the Sessions amendment, with a Pryor amendment connected to that, and a McCain amendment, so that we can try to finish this bill by tomorrow. So that is what we are working on. We are of the same mind on that. I hope very much that we will be able to get the amendments cleared that are very important. I would ask all of our colleagues to work with us to expedite matters so that we can finish this bill early tomorrow.

Thank you, Mr. President. I thank the chairman as well for working with us on this issue.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I think the distinguished chairman of the Judiciary Committee wishes to speak, but he is waiting for something, so I will proceed.

This Federal aviation bill is enormous in scope, but we are doing it in little pieces and with little amendments, so sometimes it is hard. It has seven different titles in it. One of them has to do with community air service to rural, underserved areas, which is very important in my State and in the Presiding Officer's State—really all of our States. Even California and New York have many very rural areas where they need air service.

I spent 10 years chairing the Aviation Subcommittee, and I enjoyed it enormously. I now chair the full committee, which I enjoy enormously. But one focus throughout has been trying to protect small and rural communities and give them air service. They travel. If the local airport promotes itself, as a product must—it is not just a place people go to; they have to announce themselves to the public and say: We can take you here, we can take you there, while others of us try to get flights in. It is tremendously important, so they are worth fighting for, and we do that.

Large and urban States sometimes question that, but if they look in their hearts, they have a lot of the same requirements themselves. It is really about equality, and it is about the economy, and it is about fairness. What is the difference between somebody from a city and somebody from a smaller community? They both do business. One may not have a big jet and therefore may require a smaller airplane, a commuter airplane to get to

where he or she wishes to go, but it is important that they be able to get there. So it is vital to our economy.

Every single business considers, along with the school system, the so-called quality of life, the crime rate, all of this, they consider air service when they are deciding whether to locate or to expand in a particular State. And so for that, we have this wonderful program called the Essential Air Service—the EAS. It is a program which has proved vital to communities across this country. It has allowed them to keep air service they might not otherwise be able to keep, and literally so. It doesn't bail them out to do that. I mean, it doesn't pay the cost of that, but it helps them and they use it.

The first option of air carriers, naturally, but regrettably, as far as a small community is concerned—if they are in distress, as our airlines, our legacy airlines in particular, have been in recent years—is they go to the end of the food chain to make their first cuts, and that is always the small communities—the small airports and the small centers. That doesn't make them less important.

Every time I think about that, I think about the time I ran for Governor and I was defeated. I became president of a wonderful small private college which had a grass airfield. They didn't get any Federal help, because you can't do that with grass. But I always remember there was a little yellow farmhouse when I drove out there, and it is still the same little yellow farmhouse today. But if you go inside it has a worldwide educational CD, video. It is the highest possible technology company you can imagine. It just doesn't happen to want to build a big building. It is happy in this little yellow farmhouse. You don't have to have tall skyscrapers to do business. So the small community air service development program has helped people.

My bill takes several important steps toward KAY BAILEY HUTCHISON'S bill. We worked side by side—and I can't say this enough—every step of the way. It is sort of a perfect combination of a ranking member and chairman. We do several things here: We increase the authorized funding for the Essential Air Service to \$175 million. That is an increase of \$48 million. That is not a whole lot of money, but on a nationwide basis that does a lot. That keeps many small airfields open and allows them to have control towers and run air service.

We permit the Federal Aviation Administration to incorporate financial incentives into contracts with the Essential Air Service carriers to encourage better service. You have to keep your eye on them. It is not just the question that Senator DORGAN has talked about; that is, what is the name on the airplane. Sometimes there are two names and you don't know which one you are riding on—is it United or Colgan or what—and you need to know that. We correct that elsewhere, in another title in our bill.

We also authorize the Federal Aviation Administration to negotiate longer term Essential Air Service contracts. That makes sense because that gives a sense of stability and predictability to an airfield—to a small airfield—and to the public which is interested in it.

We authorize the development of financial incentives for carriers to improve their service, as I indicated. It is quite amazing, the whole structure of what people get paid to fly, from these little carriers to commuter airlines. I am not going to give numbers to their salaries, because you would be shocked at what they get paid—a lot less than teachers. But they accept that because the seniority system says if you have flown a long time, you get paid a lot. And they have accepted that because people who know how to fly love to fly, and they want to fly. But you have to keep your eye always on the quality of service.

Maintenance is a very high order, because that is the kind of thing which could be neglected and people might not notice. It is like keeping up your house. You can't defer maintenance or you pay a terrible price. In the case of airlines, the price is very obvious.

We also authorize the Airport Improvement Program to convert Essential Air Service; that is, small airports, into general aviation airports. That turns out to be very convenient. There are thousands of general aviation—big jets, little jets, and King Airls—all over this country, and they fly everywhere, and we want them to. So we try to encourage the EAS to do well by them.

We have increasing funding for contract towers. That is important. You have to have a tower. I had a 9:30 appointment this morning, and from not a large airport. Before taking off, there was fog, so they couldn't take off. I assume they could see the fog themselves. But if they were in doubt, the air traffic controller said: You aren't taking off. That is called a service to them; less to me but to them, and that is what counts.

In closing, I will mention something very important to West Virginia and to other States. Our global economy is growing and we are much more interconnected. It becomes very important now, for example, that commuter services don't just take you from, let's say, Charleston, WV, to Cincinnati. Sometimes, more importantly for business, they can take you to Dulles Airport and you can connect to the international air flight business, so that somebody from Bloomfield, WV, or Beckley, WV, can be flying and go see his or her customers, or potential customers, from a little commuter airport and a little commuter airplane, which then turns into a much larger airport and international flow. I am proud of this. And this is just part of our bill.

In the absence of other business, as we wait for amendments to be worked out, we will do three of those this afternoon. Then we will have, as I say,

a tranche of agreed-to amendments—a very large tranche. In the tranche of yesterday, which was 14 amendments, and the tranche of today, which is almost that, that will be the bulk of the bill.

We have been 3 years waiting on this bill. It has been sort of held over or extended 11 times. Indeed, it will be 12 times by the time we pass it, which will be, hopefully, tomorrow evening.

I thank the Chair and yield the floor.

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

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I offered, along with Senator CLAIR MCCASKILL, my Democratic colleague, an amendment that will help contain our tendency in this body—a bipartisan tendency, unfortunately—to bust the budget, to spend more than we state we are going to spend. It is a temptation that is all too real. We are faced with competing choices to spend and spend, and some of our Members just find it hard to say no.

We have to be careful about that because each time we do that, the baseline of the budget or the emergency spending goes up, and we have gotten into a habit of it that is surging us on an unsustainable path. Mr. Bernanke, the head of the Federal Reserve, the Obama administration's leaders, independent economists, and Republicans across-the-board are saying we are on a spending path that is unsustainable, that we cannot keep on. But I have to tell you, a lot of this is bad because we budgeted it; but a lot of it is bad because we break the budget and spend more than the budget says.

We have a historical incident in which this Congress passed statutory caps on spending to support the budget. In effect, Congress passed laws that said this is our budget for the next several years. We have actual spending dollar limits in our budget. Let's pass a law that says if we go above that, it takes a supermajority.

Our bill says it would take a two-thirds vote to exceed the spending the budget allows. Some say: A two-thirds vote? That is a high vote. But it is based on the budget and the passage of a budget, and the budget is passed by a 50-vote majority. So the budget essentially will be the Democratic colleagues' budget. What they pass is what they expect the levels of spending should be and where we should cap it and where we should not go any further.

This legislation would enhance our ability and state with clarity, as a bipartisan act of this Senate and Congress, that this is where we are going to stay and that we are serious about it

this time and we are going to do something about spending that is out of control.

The simple truth is, we cannot continue to spend as we are. The simple truth is, we are spending into debt, deficit, more than we ever have in our history. Let me just show this chart. I think it is a pretty indicative chart that should cause the average person to lose their appetite—maybe even have their hair stand up. I used this chart a week or so ago. I was meeting later with a Foreign Minister from a European country.

He said: I happened to be watching C-SPAN. I saw you yesterday on the floor with this chart. He said: Do you use charts on the floor often?

I said: Yes, sir, we do, Mr. Minister.

He said: I thought it made a lot of sense. You ought to go all over the country and show that.

This is the Congressional Budget Office numbers based on the budget that is out there. It shows what our debt held by the public is. The debt held by the public is the debt where we sell Treasury bills and people give us their money. They loan us their money, and we promise to pay them back—over 10 years or 2 years or 30 years—at a certain rate of interest. Some people say: You should not count the internal debt; that is not exactly accurate. The only thing that really counts is the public debt.

The internal debt, the gross debt is much larger than this, but let's just use these numbers. In 2008 the total public debt of the United States was \$5.8 trillion. Since the founding of our Republic—in 1789, I guess, since the Constitution was written. In 2013, according to CBO staff, it will double to \$11.8 trillion. That is just 3 years from now—double. Then, in 2019, it is projected to go to \$17.3 trillion, more than triple. This is not a little-bitty matter. That is why people are saying we cannot continue this way. That is why Moody's, the debt rating agency, is continuing to discuss whether to downgrade the American debt.

There are entities out there that insure debt. Some people are so nervous about debt they want to insure the Federal Government debt and they pay an actual insurance premium to make sure if the government doesn't pay them what they owe, the insurance companies will pay them what they owe. I am not sure that is a smart deal. Maybe it is in a smaller country. At any rate, people pay this.

The amount of insurance that has been paid on the American debt has tripled. It is not a lot, but it says something about what independent people are valuing.

The debt of Greece amounts to 12.9 percent. The 1-year deficit for Greece amounts to 12.9 percent of their total economy—GDP. We are at 9.9 percent, our debt. This year—the year ending September 30, last year—that deficit was \$1.4 trillion, three times the largest debt in the history of the American Republic—three times.

Is this year going to be better? No. This year they are projecting when September 30 arrives, our deficit for that one fiscal year will be \$1.6 trillion. According to some of the estimates, the debt would drop down to about \$600 billion over the next 10 years, through 2019. But now we are seeing numbers that indicate that was too rosy a scenario and we probably will not drop below \$700 billion, and then it starts up in 2018, 2019, 2017—almost \$1 trillion a year annual deficits.

These numbers are low by any estimate. Already this year's deficit was supposed to be a little over \$1 trillion, but it is going to be \$1.5 trillion; maybe \$1.6 trillion. That is a lot of money. We just passed another bill that added another \$104 billion to the debt for a jobs bill.

What we are saying is, we are on a pathway that is unsustainable. We cannot continue to run trillion-dollar deficits. We are going to average almost \$1 trillion a year deficit for the next 10 years—probably it will average maybe more than that. That is why I think all of us are concerned about it.

Senator MCCASKILL and I, as a first step, offered legislation that said we are going to stick with our budget. If we will just stick with our budget things will be better than they would be if we do not stick with our budget. It is not a cure-all. It does not deal with entitlements and all the things with which we are confronted, but at least our discretionary spending will stick with our budget.

The first vote was 56 voted for it. We made some changes to accommodate concerns of some of our colleagues, and 59 voted for it—18 Democrats joined in voting for that amendment. So we need one more vote to make it law, and I am pleased to work with Senator MCCASKILL because we are serious about this good step.

When it was done, similar legislation was passed in the early 1990s and continued throughout the 1990s. That was a factor, no doubt, in going from substantial deficits in the early part of the 1990s and in the 1980s to surpluses in the latter part of the 1990s. That was a big part of it because we stuck to our budget numbers and we made progress.

Again, what number are you saying—is it a freeze on spending? Not really. The President talked about a freeze on spending. I will support that aggressively, but we are talking about a 1-percent or 2-percent increase, according to the budget. So it will give us a hard limit on how much increase in spending we will have. It will not require a cut in spending.

How does this play out in terms of our economy? Well, what is a \$1 trillion? We used to talk about millions, and then billions, now we are talking about trillions. Is that really a lot of money? Yes, it is. One trillion dollars is one thousand billion.

In Alabama State, we are almost 1/50 of the American population, and Alabama's general fund budget is about \$2

billion. Alabama, counting education, is less than 10. One trillion dollars is an amount of money difficult for us to comprehend. We have never, ever dealt with numbers as dramatic as these numbers.

What is wrong with borrowing? Why don't we just borrow? We have to pay interest on it. This is public debt. We do not have any internal surpluses anymore, or very little, from Social Security and Medicare. We have to go out and borrow this money on the marketplace and we pay interest on it. We pay interest every year on what we borrow. Congress passed, over my objection, an \$800 billion stimulus package. Every dollar of that was borrowed because we were already in debt, and when we spend \$800 billion more we have to borrow it and we pay somebody interest on it. It comes out of our money that we collect in taxes. We have to pay interest first just like you do on your mortgage. The first thing, you pay your house note, otherwise they are coming to foreclose and out in the street you will go.

How much interest do we pay? That is a question I think drives home how serious our unsustainable course is. A simple truth is that the interest on the national debt is growing in an incredible rate and will soon surpass defense budgets and everything else in our budgetary items. Look at these numbers.

In 2009, last year, we paid \$187 billion in interest. What about the highway program? The Federal highway program that we talk so much about and argue and debate about exactly how much that should be is \$40 billion a year, just \$40 billion. We paid last year \$187 billion in interest. This is a lot of money. But as I told you, since we have an unsustainable annual deficit every year, huge deficits on top of the debt we have already accumulated, our interest payment on the public debt will go up. Look at these numbers.

In 2020—from 2009 to 2020 the number hits \$840 billion in 1 year we will have to pay in interest because we borrowed so much money. That is why we hear people say time and again this is immoral. We are borrowing from our future, from our children and grandchildren, so we can spend today and live well today without worrying about the impact it is going to have in the future. Do not think this will not impact the economy adversely also. This money is all a product of borrowing from the economy, so the government is now crowding out private borrowing by sucking up the money itself.

If you are a private person and you needed to borrow money and you say: I promise to pay you back, and the guy said: I think you will pay me back, but the U.S. Government will pay me 5 percent on a T-bill. Why should I loan you money at 5 percent? If I loan to you, you are less secure. I want 7 or 8 percent from you, big boy. That is how things happen. It drives up our wealth

and capital for the expansion of businesses and home buyers and that sort of thing.

So look at that chart. It is a stunning chart, and it is a chart that has the numbers on President Obama's budget that he submitted to Congress, as scored by the Congressional Budget Office.

Well, that is why we have to do something. There are a lot of things we need to do. But I am hopeful that in our debate and discussion in recent days that we have had this vote up, this will be the third time we vote on it. I am hopeful my colleagues will see this as at least one firm step we will take that will help us contain our tendency to not stay with our budget.

If we were to stay with spending increases that did not exceed 1 or 2 percent that is in the budget of the next 4 years now, according to the budget passed last year, we would see a positive impact on spending.

Unfortunately, in the last year, we had bills such as Agriculture increased to 10 percent; we had bills such as Interior get about 15 or 20 percent; we had bills such as EPA, the Environmental Protection Agency, a 30-percent increase; State Department, a 30-percent increase.

A 30-percent increase in a budget, the budget is going to double in about 3 or 4 years. At 7 percent, money will double in 10 years. So I just would say, this is a dangerous thing. This will help us contain that spending. That is why Senator MCCONNELL and I are so interested in seeing if we can be successful with this legislation.

I understand Senator PRYOR has an alternative; they call it a side by side. "Vote for mine, do not vote for theirs" kind of amendment. I am not exactly sure what it says. Hopefully, I can support his too. I understand his may be just a 1-year binding cap. It provides no point of order to waive the cap. It increases spending in a number of accounts. So we will look at that. I would like to be able to support his too.

But what I would say to my colleagues is, the advantages of the amendment Senator MCCASKILL and I are offering are, it is a proven procedure, it requires a two-thirds vote to break the budget, it allows us to tell ourselves, tell our constituents, and the world financial markets that we get it, we are willing to begin to contain this spending and that we can do better and we will do better in the future and there will be other steps we will want to take.

But I do believe this amendment will be one of the first things we can do, in a bipartisan way, to help control the growth of spending and put us back on track. In the 1990s, it led to actual surplus. So I urge my colleagues to support the Sessions-McCaskill amendment. I believe it is the right thing for our country. It is a significant step that will work. It is not going to solve all our problems, but it will be a big help.

I yield the floor.

Mr. ROCKEFELLER. Mr. President, I would ask if Senator SESSIONS notes the absence of a quorum.

Mr. SESSIONS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. I ask unanimous consent to be recognized to speak as in morning business for such time as I may consume.

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

Mr. INHOFE. Mr. President, first of all, let me say that I do like all the guys I am opposing on this legislation. I have been particularly close to JIM DEMINT for quite some time. It happens that Senator DEMINT and I, almost every rating that comes along, are considered always in the top five most conservative Members of the Senate.

In fact, I tell the occupier of the chair who already knows this, that just last week I was declared by the National Journal to be the most conservative Member of the Senate. I say that because I am disagreeing with a lot of my friends who have come forth to try to do something about what they call earmarks.

Let me try to make a couple points that I think are significant. First of all, an earmark that is in a current underlying bill, if it is defeated, does not save one cent, not one.

People out there believe—and I have heard the talks on the floor where they say: Well, we have to do something about the next generation and all that. Look, I have 20 kids and grandkids. I am the guy who is concerned about the next generation.

So when you try to make people believe you are doing something that is saving money and doing something about the horrible spending that is going on, it is not sincere, because an earmark does not add money. What you do when you kill an earmark is redirect it or you might say you have an earmark, but you do not like what they put in, so you are going to rearmark it to something else.

I will give you a couple examples. These examples, I know the Chair is familiar with this because he serves on the Armed Services Committee. They are two earmarks that Senator MCCAIN had; one was the earmark for the F-22, where the President had had an amount of money for the F-22, our fifth-generation fighter. I thought it was not enough. Several of us added more, about \$1.75 billion to that program.

Senator MCCAIN—and I respect the fact that he disagreed—disagreed on this issue. But he had an amendment

to strike that earmark, which was a successful effort. So he struck it. However, that did not change the fact that the NDAA, that is the National Defense Authorization Act, was still at \$679.8 billion, the same as it would have been had that earmark not been struck.

What happens to that money? That was the \$1.75. Well, that goes back into the defense system, into the Pentagon, where President Obama and his people can make a determination as to how to spend that.

Using another example very similar to that, when we had the appropriations bill—that was authorization—when we had the appropriations bill, it was at \$625.8 billion. We had an earmark that—you can call it an earmark because we increased the amount of money within the bill, and we offset it to increase the number of C-17s. We felt, in our judgment, that is what should happen. That would have been \$2.5 billion.

So Senator MCCAIN tried to get that out of it, and he was unsuccessful. So I have given you two examples, one where you successfully defeat an earmark, one where you are not successful. But neither one changes the underlying bill.

So for that reason, it does not happen. Another one the Senator had was having to do with transportation. I respect him. I do not agree with him. But he had an amendment that would strike some things from the Transportation bill amounting to about \$1.7 billion. He redirected that to NextGen. NextGen is a program I am very familiar with because it has to do with the next generation of avionics and all of it. I know the Chair is aware of this; that when Senator Glenn retired, that left me as the only active pilot in the Chamber or the only commercial pilot. So I stay on those issues.

I found out I disagreed with Senator MCCAIN on that because CBO said we could do the NextGen without this additional money. So the point I am trying to make is, eliminating earmarks does not save any money.

Here is another thing that I think is significant. Sean Hannity had a three-night report that I enjoyed. What he did, he had a list of 102 earmarks. He went down these earmarks, and everyone enjoyed it. Last night he had the last 20. So he went: Earmark No. 20, 19, 18, 17, 16—went all the way down to earmark No. 1. There is not time to cover all 102 of these. I did this on Monday on the floor, by the way.

But it was such things as the \$3.4 million to the Florida Department of Transportation to build an ecopassage to allow turtles to cross under the highway so they would not get hit by a car. That was \$3.4 million; \$450,000 for 22 concrete toilets in the Mark Twain National Forest; another earmark, \$325,000, to study the mating decisions of female cactus bugs. That was another one. This country needs that, of course; \$300,000 to buy a helicopter equipped to detect radioactive rabbit

droppings; \$400,000 to study whether adults with attention deficit disorder smoke more than other adults. This is one that really wound me up: \$500,000 in a grant to a researcher named in the climategate scandal. Here is a guy who has been cooking the science, and we are going to give him half a million dollars. Then there is \$500,000 to study the impact of global warming on wildflowers in Colorado.

I could go through all 102. But there is one thing they all have in common. I will bet you not many people know what that is. Not one of these 102 was a congressional earmark. These were all Presidential or bureaucratic earmarks. There is where the problem is. But they won't talk about it because the public has been duped into thinking congressional earmarks are a problem.

Let me tell you what happened over in the other House. I am criticizing my own Republicans now. The Republican caucus got together and they had a resolve. They said:

Resolved, that it is the policy of the Republican Conference that no Member shall request a congressional earmark, limited tax benefit, or limited tariff benefit, as such terms are used in clause 9, rule XXI of the Rules of the House . . .

That finally defines what an earmark is. I was thankful for that. Even though their policy was bad, at least they talked about what an earmark is. Here is what it is. Clause 9, rule XXI applies to all legislation in the House of Representatives, whether it be authorization or appropriation. That is what we do for a living around here.

There is an old document nobody pays any attention to anymore. It is called the Constitution. If you look up article I, section 9 of the Constitution, it says that no money shall be drawn from the Treasury but in consequence of the appropriations made by law. That is us.

Besides, if you remember studying about this—I know the Chair and I have talked about his knowledge of the Constitution—it was James Madison who was the father of the Constitution. He was the one who came up with the three coequal branches of government—the judiciary, executive, and legislative. He is the one who coined the phrase “power of the purse.” That was James Madison. If you read the Federalist Papers, he made it clear what we were supposed to do. What we in the House and we in the Senate are supposed to do is pass laws that are necessary to have appropriations and authorization.

The Chair and I are both on the Senate Armed Services Committee. That is the authorization committee. We go through and study what we need to defend America—missile defense, for example. We need to have redundancy in all phases—the boost face, the mid-course face, the terminal phase. All these things are complicated, and we really can't expect the general public to be aware of it because they are too

busy making money to pay for all this fun we are having up here. We have this authorization. That is what the Constitution says we are supposed to be doing.

Then appropriations. After we authorize something, study as to whether it should be a priority, then we have an appropriation to put it into law. That is, again, what we are supposed to be doing. The Constitution tells us we have to appropriate and authorize.

The oath of office—everyone here has taken the oath of office. In that oath, we say we solemnly swear we will support and bear true allegiance to the Constitution of the United States.

Wait a minute. They are going to uphold the Constitution, but they have just said by their own resolution that they are going to break the Constitution.

I look at this, and I think about how people, if they only knew this was going on, if they only knew that all these earmarks Sean Hannity talked about, all 102 were earmarks that came from unelected bureaucrats—people not responsible.

There was an interesting article in the Hill paper the other day. It was from February 4. They say lobbyists are now going to Federal agencies because of all these efforts because of earmarks and all that. So we have turned over and given to unelected bureaucrats what we are supposed to be doing under our sworn oath.

I know Senator MCCAIN is going to have an amendment coming up tomorrow. I would like to suggest that people who talk about not doing earmarks have done earmarks. In the case of Senator MCCAIN, there was an article titled “McCain Breaks Own Pork Rule.” This was from November 7, 2003.

Then we have Senator DEMINT, who—again, I really value him. He is one of my closest friends. I remember when he was first running for office. I went to South Carolina, and they talked about how roads were so important down there, and he swore he would support them. So he did. He kept his word. These are earmarks. Senator DEMINT: \$10 million for the construction of I-73 at Myrtle Beach; \$15 million to widen U.S. 278 to six lanes; \$10 million, engineering, design, and construction of a port access road; \$10 million in improvements to U.S. 17; \$5 million, widening SC 9; \$3 million to complete construction. These are earmarks that were done by Senator DEMINT. I don't blame him. That is what we are supposed to be doing. I have done the same thing. You add up all these earmarks on just that bill, and it comes to \$110 million. Those are Senator DEMINT's earmarks on that one bill.

What I am saying is, these guys all earmark, but somehow the public thinks there is something wrong with earmarks. I say: Fine. Define earmarks. Be as honest as the House of Representatives. The House of Representatives says earmarks are authorizations and appropriations.

What we need to do is remember what our jobs are here. Again, the thing that frustrates me is that there are so many people writing editorials thinking earmarks are going to somehow cut spending. They don't cut any spending. Eliminating an earmark merely transfers it from our constitutional responsibility to the executive branch. I am hoping people will understand this.

I can remember 8 years ago. Everyone said at that time that global warming was caused by manmade gases, anthropogenic gases. I thought, it must be true; everybody says it is true, until the Wharton School of Economics came along and did a study during the Kyoto Treaty days. They said: What would it cost America if we were to sign and ratify that treaty and live by its emissions restrictions? The range they gave us was between \$300 and \$400 billion a year. We are talking about \$300 to \$400 billion a year.

I see my friend from Arkansas. I suggest to him, that \$300 to \$400 billion a year would cost every taxpayer he has who files a return in the State of Arkansas just under \$3,000 a year. That is what it would cost. We didn't ratify that.

Along came, in 2003, the McCain-Lieberman bill—another cap-and-trade bill to do essentially the same thing Kyoto did—and then the McCain-Lieberman bill in 2005 and the Warner-Lieberman bill in 2008 and the Sanders-Boxer bill in 2009. All of these have one thing in common; that is, cap and trade. Right now, we have Senator LINDSEY GRAHAM and Senator JOHN KERRY trying to change the word, not use “cap and trade,” but essentially it would be cap and trade.

All of that would have cost between \$300 and \$400 billion a year. I bring that up because it is pertinent to this. I brought it up because 8 years ago nobody believed me when I said it is going to cost that much money and it will not accomplish anything.

Then, as the years went by, finally the Environmental Protection Agency director, appointed by President Obama, in response to a question I had—I asked: Let me ask you this. If we were to pass this bill—that was the Markey bill; they are all the same; cap and trade is cap and trade—how much would it reduce the emissions of CO<sub>2</sub>? Her answer was: It wouldn't reduce it.

Common sense tells us it wouldn't. If we do something unilaterally in America, it will not reduce the worldwide amount. As we lose our jobs here, they to go China and Mexico, places where they are generating more electricity. It will have the effect of increasing not reducing it.

It took America 7 years. I was a bad guy for 7 years because in advance I said that this is what it was going to cost. It was a phony issue. Finally, they agreed.

This has endured 3 years. I have been trying to explain to people for the last 3 years that you don't save any money

if you kill earmarks. We need to define what they are. The House has been honest. They have defined it as authorization and appropriation, which is what the Constitution says we are supposed to do. Everybody who says they are against earmarks has been introducing earmarks.

The bottom line is, we need to really address something meaningful.

What I have done is I have introduced a bill that will do what President Obama said he was going to do; that is, freeze the nondefense discretionary spending at the 2010 levels. The only problem with that is he increased it in his budget by 20 percent. You are talking about increasing the nondiscretionary or the discretionary non-defense spending after you have increased it by 20 percent. So I introduced a bill that says let's take it back.

This President is always talking about what he inherited from the Bush administration. In 2008, the amount of money that was called discretionary spending was 20 percent less than 2010. If it is good for 2010, let's bring it down to 2008. We have an opportunity that would save just under \$1 trillion in the next 10-year budget cycle. That is the answer. That is what I think we ought to be doing instead of sitting around and deceiving the public into thinking that just because the media doesn't understand it, somehow earmarks are going to accomplish something worthwhile.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3548 TO AMENDMENT NO. 3452

Mr. PRYOR. I move to set aside the pending amendment and call up amendment No. 3548.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for Mr. REID, for himself and Mr. PRYOR, proposes an amendment numbered 3548.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. PRYOR. Mr. President, I know this Nation is in a fiscal crisis. Anybody who is paying attention to the details understands that. We have to get serious about deficit reduction. I believe that in order to do so, we have to look at the full picture. We can't just look at discretionary spending.

I thank the President for saying he wants to freeze discretionary spending. It is going to be an unpopular decision, but we need to start taking steps like that. I also thank Senators SESSIONS and MCCASKILL because they have offered an amendment that is going to be voted on in a few minutes that freezes discretionary spending and puts a cap on it. It is for fiscal years 2011, 2012, and 2013. I voted for that on a couple occasions and still support the concept.

But in order for us to get serious about getting our fiscal house in order,

we have to put everything on the table. That is the bottom line. When we do the fiscally responsible thing, it is going to be hard. It is going to be difficult politically. It will take determination and political will. But we have to put everything on the table.

The multiyear discretionary spending caps were a key part of the 1990, 1993, and 1997 deficit-reduction packages. However, one of the differences in those packages and what Senators SESSIONS and MCCASKILL are offering today is those deficit-reduction packages looked at all spending, mandatory and discretionary, as well as revenues. That is what my amendment, the Reid-Pryor amendment we will also vote on this afternoon, does. It puts everything—almost everything on the table.

We have to get serious about fiscal discipline and restoring fiscal order in the United States. There is a story in yesterday's New York Times—I am sure it was widely reported—that Moody's is considering downgrading our bond rating from AAA down to something lower because of the enormous national debt we have.

By establishing limits only on discretionary funding sources, we greatly reduce the likelihood of any bipartisan agreement we can make in this Chamber to fix our long-term deficits and long-term debt problem. I think for us to fix this and to get our fiscal house where it needs to be, we have to approach this in a bipartisan way. My concern is, if we just do discretionary spending, we will never get to a bipartisan agreement.

The other thing about this: If the Reid-Pryor amendment were adopted today, I think the markets would like it. I think Wall Street and the global markets and all these folks such as Moody's and all these other people who are watching would see this as a very positive signal and it would help the U.S. economy in many ways beyond just the pure numbers in the budget.

I trust the members of the President's National Commission on Fiscal Responsibility and Reform. I trust they will provide very viable options and solutions. I look forward to their hearings and all of their suggestions as they go through this year and try to address some of the fiscal challenges we have.

The Senate has six Members on this commission: Senators BAUCUS, COBURN, CONRAD, CRAPO, DURBIN, and GREGG. All of these people bring great experience. They all bring to the commission great depth of knowledge on these issues. I am afraid if we do the cap on discretionary spending, as we talked about before, it might actually serve to undermine the commission's very challenging work.

I have a chart here that lays out a few things. This actually comes from CQ Today, from Tuesday, February 2, so it is a little more than a month old. But it paints a couple of pictures that I think we need to emphasize today as we compare these two amendments.

The first picture shows these pie charts. I do not know if the cameras can pick these up for the folks back home, but, as shown on these two pie charts these are the 2011 revenue estimates and the 2011 proposed outlays.

One thing that I think is critically important is that when we look at the Sessions-McCaskill amendment—you can see this purple slice of the pie right here. You can see it is much less than half of the Federal budget. You can see that very easily. But in the fine print here—this is discretionary spending—that is nondefense and national defense right there. Of course, they are carving out for national defense. So my guess is, they are only talking about, I will guess, 20 percent of the Federal budget. I am not quite sure how much. So they are trying to fix all of our problem with just about 20 percent of the budget.

What our proposal does is it actually includes almost everything in this pie, instead of saying 20 percent, probably 80 percent, 85 percent, 90 percent of the Federal budget will be included in trying to address the fiscal challenges we have.

There is another thing I want to point out on this chart. It has been around a long time. I have seen it in many publications. On this chart, you can see our deficit spending, starting with the Jimmy Carter administration, going through the Reagan years, the George Bush years, the Clinton years, the George W. Bush years, and the Obama years. You will see that, of course, the Obama years are mostly projections.

But what you see in these purple lines, all down here—under zero—those are our deficits. Then they actually go up during the Clinton years above zero. We go into surplus spending for the first time in a long time, paying off national debt, trying to be fiscally responsible, making tough choices. Not everybody was happy about that. We were trying to do that. Then you see what happened after 2000, where our numbers plummeted.

This yellow line—that maybe is hard to pick up on television—is the percentage of GDP. But, nonetheless, you see on this chart a sharp dropoff, and then you see this other sharp dropoff. So we have to understand, when this President came into office, President Obama, he did inherit a lot of problems, a lot of fiscal problems. But it is also because of the recession, because of the near global economic collapse, because of two wars and just because of some of these fiscal policies of the previous administration and because of the stimulus and because of some of his priorities. But you see the numbers going way down.

To President Obama's credit, he is moving the purple lines back up, and that is great. But it is not enough. It is not enough. We need to move these lines on up here, and we need to get above zero. We have to get back to surpluses in this government so we can

pay off the national debt, and do this before our children and our grandchildren are stuck with us living beyond our means.

I think that is the bottom line. I think the Reid-Pryor amendment is the amendment that does that. We can talk about how we have an annual deficit this year of—I think it is \$1.2 trillion. I have forgotten the number. We can talk about the national debt of—I think it is \$13 trillion, and growing every single year. We have to get that turned around. We are on an unsustainable course. We have heard the chairman of the Budget Committee. We have heard the ranking member of the Budget Committee. We have heard people who care about this issue say time and again: We are on an unsustainable course.

I would ask my colleagues to look at the Reid-Pryor amendment. In some ways, it is structured like what Senator SESSIONS and Senator MCCASKILL have offered. Again, I voted for previous versions of that. They changed it a little bit this time. But I think the greatest liability for the Sessions-McCaskill amendment is it does not take in the whole picture. Like the pie chart, it takes in a little bit of this pie chart but not the whole thing.

If we are going to get serious—get serious—about fixing our fiscal equation, we have to put everything on the table. That is discretionary spending, mandatory spending, as well as revenues. We have to put it all on the table, and we have to work through this together, hopefully in a very bipartisan way.

I do not think we can fix this overnight. Even if our amendment were to pass this evening, it does not mean we are out of the woods yet. What it does is set the table for the deficit commission and others in future Congresses to come in and do the things we need to do and get us back where we need to be.

The last point I want to make about this chart right here is, if you look at this purple line, this chart is basically a graph of political courage. That is what this is. Because the easiest thing in the world for a politician to do—the easiest thing for a politician to do—is to cut taxes and raise spending. That is exactly what you see on this chart. You see tax cuts coming in at various times, and you see spending going up at various times. These purple numbers get way out of balance when Congress and the White House take the easy way out, and that is exactly what you see on this chart.

That is why we are in this situation today. It is not one President's fault. I do not want to blame it all on this President or on the previous President. This has been going on for a long time. It is not one Congress's fault. It has been going on for a long time. But we have to have the political will to change the way we do things around here.

I hope tonight will be a very important step in that process. I hope my

colleagues on both sides of the aisle will look at the Reid-Pryor amendment that contains all three fixes—and that is discretionary spending, mandatory spending, as well as revenues—and try to get this passed tonight and get us moving in the right direction.

I say to the chairman, I think we are waiting on Senator INOUE. So until he gets here, all I wish to say is, what the Pryor amendment does is to freeze all discretionary spending caps at the levels proposed by President Obama for fiscal year 2011. It freezes all discretionary spending caps for fiscal years 2012 and 2013 at 40 percent of the difference between President Obama's budget proposal and last year's budget resolution. The reason we do that is because Senator SESSIONS and Senator MCCASKILL used last year's budget numbers, and it may be fair under the circumstances this year. We are splitting the difference there.

The third thing is that these two freezes will reduce discretionary spending by at least \$77 billion over 3 years—reduce discretionary spending by \$77 billion over 3 years—a pretty substantial cut.

When we talk about discretionary spending, we are talking about mostly the popular programs the government has. It may be things such as auto safety. It may be things such as child product safety. It may be things such as the Federal Trade Commission and some of the oversight they have to keep consumers safe. It could be the EPA. There are a lot of things—clean drinking water, clean air. That is what we are talking about when we talk about discretionary spending. So we are doing cuts there. Those are going to hurt. Again, people are not going to be happy about that.

It also requires the National Commission on Fiscal Responsibility and Reform to find at least an additional \$77 billion of deficit reductions over the 3 years to close the gap between the projected revenues and entitlement spending. It basically says they have to find some spending cuts as they do their work.

It also requires Congress to enact the debt commission's recommendations by January 2, 2011, for fiscal years 2012 and 2013 discretionary spending caps to go into effect. It has a sense of the Senate that the total amount of deficit reduction by the debt commission shall be at least equal to the reductions in discretionary spending.

One of the differences between the Reid-Pryor amendment and the Sessions-McCaskill amendment is theirs is just about spending. And listen, spending is important, and that is half of the equation. We are spending too much money, and I recognize that, a lot of other people recognize that. I know a lot of people in Arkansas recognize that. But that is only half the equation. The other half is how much we are taking in, and can we do better and smarter all around the board and put everything on the table to try to fix this.

The real problem we face, in my view, is not spending alone but it is the spending that is leading to these enormous deficits every year and this enormous national debt. So I think our approach is more comprehensive. I think it is fairer. I hope many of my colleagues, once they see the language of the legislation, will consider voting for it.

With that, Mr. President, I yield the floor and 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. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, while we are continuing to wait, as we have basically waited all day for amendments to be offered and debated and voted on to the FAA reauthorization bill, Senator ROCKEFELLER has remained on this floor most of this day. This is a very important piece of legislation. It is disappointing that it has slowed down, as have most of the issues we have dealt with in recent months, in the past year.

Apparently, we will vote either later tonight or likely tomorrow on an amendment to the FAA reauthorization bill that has nothing to do with the bill. It is so characteristic of the Senate that we bring a bill on air safety and modernizing the air traffic control system, on essential air service, on passengers bills of rights, and an amendment is offered that has nothing to do with those subjects. The rules of the Senate allow that.

Let me at least talk for a moment about an amendment that will be voted on probably next and probably tomorrow, I guess, by Senator SESSIONS and Senator MCCASKILL. I know Senator SESSIONS spoke about this recently. He used a very large chart to show the growth in Federal budget deficits and also debt. There is no question that the level of budget deficits and debt are unsustainable and dangerous to this country. There is no question about that.

What we ought to do is understand, No. 1, how did we get here and, No. 2, how do we get to a different direction that addresses these issues. Let me describe briefly the first part and then the second part.

Ten years ago, there was a budget surplus in this country—the first time in 30 years, a budget surplus 10 years ago. Then President Bush was elected, and President George W. Bush said at the time: There is a budget surplus, and it is expected now there will be a surplus for the next 10 years. He had Alan Greenspan, then-Chairman of the Federal Reserve Board, whispering in his ear and saying: And, by the way, if we have surpluses for 10 years, I worry

a lot about paying down the Federal debt too quickly. I worry that may be a real problem for our economy. I hope he did not spend a lot of sleepless nights worrying about that. He needn't have, I guess.

The President then, with that kind of counsel, said: I am going to cut taxes, and I am going to cut taxes for 10 years at least. What I am going to do is cut taxes for the wealthiest Americans because I believe this economic engine works best by putting something in at the top and letting it trickle down to everybody else.

We had a tax cut proposal that was very generous to the people at the top. I stood on this floor and said: I don't think that makes any sense at all. I think we ought to be a little conservative. First of all, these are budget estimates of surplus. They don't exist. They are just estimates by economists who cannot remember their home telephone numbers, let alone what is going to happen 3 years from now. So let's be a little conservative.

The President and those in the Chamber who voted for it in 2001 said: Nonsense. Katy, bar the door; we are going to have budget surpluses forever. We are giving big tax cuts and, yes, we are giving big tax cuts to the wealthiest because they are the ones who make this economic engine hum. And they did. I did not vote for it.

Very shortly then we found out we were in a recession.

That was a problem. Six months after that, we found out terrorists were bent on injuring this country, and we had the 9/11 attack that killed several thousand innocent Americans. Then we were at war with terrorists—at war in Afghanistan and then at war in Iraq—none of it paid for, not a penny. We sent men and women off to fight and did not ask anybody to pay for a penny of it and put all of those costs on the Federal budget debt. Just put it right on top of the debt.

In the meantime, as that decade—which I think will be known perhaps as “the lost decade” of lost opportunity in some ways—moved on, we also had people come into this town who were to be regulators and were paid to be regulators who boasted: We are going to be willfully blind for a few years. You do what you want. We won't watch. We won't tell.

The result was a field day for the biggest financial interests in America, creating the most exotic financial instruments, such as credit default swaps, CDOs, derivatives—by the way, synthetic derivatives. What does that mean? That means you have an instrument that has nothing on either side. It is just flatout gambling.

We have some of the biggest financial institutions that were spending a decade trading trillions of dollars of derivatives, synthetic derivatives, much of it by hedge funds and other financial entities that were unregulated.

Again, Mr. Greenspan said, when those of us in the Senate pushed for

regulations: No, they don't need to be regulated. It will all work out fine. Self-regulation—they are not going to do anything stupid. Self-regulation will work just fine.

In the meantime, we had the home loan scandal, massive amounts of money in subprime loans put out there to people who could not afford them by companies that were making billions of dollars. Mr. Mozilo ran Countrywide, the single largest home lender in America. He left with a couple hundred million dollars. He is now under investigation. They were putting teaser loans out.

They said: By the way, you have bad credit, no credit, don't pay your bills, no pay, slow pay. They said: Come to us. We want to give you a loan.

All of us understand that does not work. Yet that is what was going on. They were awash in money by moving all these assets and securities around. Unbelievable. That is the subprime loan scandal.

All of this transpired, and then it collapsed. When you create a house of cards, the slightest little wind blows the house of cards down. That is exactly what happened. We discovered that some of the biggest financial institutions in this country had much more leverage than they were able to sustain, and the entire thing came crashing down.

The Federal Reserve Board now has spent untold amounts of money—untold because they would not tell us. We asked them. They said: You don't deserve to know nor do the American people deserve to know how many trillions of dollars have gone out the back door to sustain investment banks and others who made bad judgments. Those too-big-to-fail institutions, no-fault capitalism, they were too big to fail, and the American taxpayers got stuck. The American taxpayers and American citizens lost about \$15 trillion in value, and at the same time had to bail out big financial institutions that made massive amounts of money.

By the way, right now they are paying, once again, bonuses of \$120 billion, \$140 billion in some of those same industries, and they are showing record profits while some 15 million, 17 million people went out to look for work and could not find it. Small- and medium-size businesses are still having difficulties. Those at the top, too big to fail, who received massive amounts of government help, are now making record profits and paying record bonuses. All of that exists.

When we hit this ditch, this financial wreck, we lost a substantial amount of income coming into the Federal Government—about \$400 billion. The economic stabilizers we have, such as unemployment insurance, food stamps, and others, the cost of them went way up. Had Barack Obama, winning the Presidency, done nothing—walking across the threshold into the White House for the first day, had he done nothing for the next 10 to 12 months he

would have had a \$1.3 trillion Federal budget deficit not of his making. That was his inheritance when he won the Presidency.

We have these giant budget deficits. I find it interesting, people come out and talk about these big budget deficits who have spent the last 10 years saying: You know what. Let's go ahead and send men and women to war, and we will just charge it. We will not ask anybody to pay for it, ratcheting up this deficit, helping create these problems.

Now, all of a sudden they are having an apoplectic seizure over budget deficits and the increased level of debt. We should have a seizure over it because it is unsustainable, and we should fix it.

We need to understand what happened to create it and making sure we fix it so that it does not happen again. That means financial reform. That means paying for wars we are fighting, and so on, which is not happening yet. Even more than that, the question is, What is the medicine or the solution? So our colleagues bring an amendment that we will vote on tomorrow that says what we should do is to freeze domestic discretionary spending for 3 years—domestic discretionary spending. Well, people who don't work around here don't know what that means so much. What it means is they are proposing to freeze that portion of Federal spending that has not blown through the lid here. What is out of control are the entitlements—massive increases in Medicare and Medicaid. What is out of control is the substantial increase in defense spending that is not paid for. What is out of control is the dramatically less revenue that comes from giving tax cuts to people who didn't need it.

If you have a million dollar income a year—which would be a good thing to have—and somebody says: You know what, you just won the lottery. Our government says: We are going to give you a \$79,000 tax cut. So a proposal that says: You know what we are going to do, we are going to take that smaller portion of the budget and we are going to freeze that for 3 years—you know, the kinds of things that educate kids, the sort of things that invest in people's lives, human capital, human potential, the kinds of things that make life better. We are going to freeze all that, but we are not going to touch anything on the revenue side. No, we want to protect those tax cuts for the biggest interests. We are not going to do anything in the entitlement areas, despite the fact that we have dramatic growth in Medicare. There is nothing in this that says: Let's take a look at all spending. They say: Let's take a look at a bit of spending. And there is nothing in here that says: Let's take a look at revenues.

You have to look at all of these things. If you are serious, if you are a deficit hawk and you are about getting your hands around this deficit problem and getting rid of this problem, then

you have to be serious out here and say we are going to do it all; that we are going to take a look at every single area of spending and we are going to take a look at revenues as well.

Let me mention one example. In 2008, the highest income earner, pure income, in America is a man who made \$3.6 billion—\$3.6 billion—running a hedge fund. So he goes home at night and his spouse says: How are you doing, honey? Pretty good. I made \$10 million today. It is a lot of money for a day, isn't it? Well, \$3.6 billion is \$300 million a month, and so \$10 million a day. But that is not his only success. It wasn't just that he made \$3.6 billion. It was that he gets to pay a lower income tax than almost anybody in the State of Minnesota—the State of the Presiding Officer—because most of the constituents of the Presiding Officer pay income tax rates that are much higher than 15 percent. But that \$3.6 billion earner gets to pay an income tax rate of 15 percent because it is defined as carried interest. That is a loophole that you can drive a Humvee through, and it is one that we ought to close right now.

You say you want to do something about deficits. How about making somebody like that pay a fair share of taxes? If somebody is going to work all day as a drill press operator and come home and shower after work and try to figure out how he is going to pay the bills and so on, if that person is paying a 20-percent, 28-percent, 30-percent, 35-percent income tax rate, how about the person who is making \$3.6 billion?

Somebody will listen to this and say: That is that old populism again. That is not populism, to talk about things that are necessary and right. It is not populism. It is deciding that everybody ought to be treated fairly, and it is not fair if those who are at the low end of the income ladder are paying the highest tax rates and those who are at the high end are paying the lowest tax rates.

Warren Buffett, the second or third richest man in the world—a guy I like and whom I have known a long time. He is a wonderful man. He did an experiment at his office in Omaha, NE. I think he said they had something like 20 or 40 or 50 people working at Berkshire Hathaway at the office. So he asked them, I believe voluntarily, to disclose what their income was—although his company pays them—and what their tax rate was. What he discovered was this: Of all the people in his office, the person who paid the lowest combined tax rate of income taxes and payroll taxes was the third or second wealthiest man in the world: Warren Buffet. He paid a lower tax rate than his receptionist. Warren Buffett said to me: That is so unbelievably wrong. It has to change. You all have to change that. I am paying what I should pay, but he said: It is not right that you have a Tax Code that has me paying a lower tax rate than the receptionist in my office.

My point simply is this: We could change that, and should, and increase some revenue as a result by making the tax system fairer and having those who should, pay their fair share. That is one way to reduce the deficit, isn't it? Except it will never be done with this resolution because it looks at that portion of the budget that would be used to fund a school or to build a water project or to build a flood protection project—just that domestic discretionary in which you invest in America. Well, that doesn't make any sense at all.

Senator PRYOR came to the floor and said he is going to offer an alternative, which I am going to support, which includes all of these things. It says: Yes, tackle this budget deficit, do it now, don't delay, but tackle it with seriousness, seriousness of purpose, not just taking one piece that hasn't exploded and ignoring the other pieces. Take the piece of domestic discretionary spending that has not exploded and say: Let's take all the savings out there. I don't understand that.

I understand the motive. The motive is to say: Well, we have a bunch of people who don't want to touch taxes in any way, even asking the \$3.6 billion person who pays a 15-percent rate to start paying his fair share. I understand they want to protect that. I don't. I want that person to pay a fair rate of taxes to our government. They would call that a tax increase. I don't. I think it is just evening up the score, saying: You want all the benefits America has to offer but don't want to pay the full obligation of being a citizen? The same is true with some corporate interests that decide they want everything America has to offer them but they want to run their employees through the Grand Caymans so they can avoid paying payroll taxes.

By the way, the same people who are paying a 15-percent income tax rate on carried interest running hedge funds are setting up deferred compensation accounts in the Bahamas to avoid paying even that 15 percent. So is that something we can shut down? Of course. Would that help reduce the budget deficit? Yes. Is that tackling domestic discretionary? No. It is more effective than doing that, because we know where this money is and we know how we could reduce the budget this way.

I am in favor of tackling every part of the Federal budget and seeing what works and what doesn't. There are a whole number of things this government does that it doesn't need to do anymore.

I know Senator KAUFMAN wants to speak, but I want to mention one thing first. I have been here at this desk a long time now, and let me describe how unbelievable it is that even waste has its constituency in this Chamber—even waste. We are doing this: We broadcast television signals into the country of Cuba every single day that the Cuban people can't see. We do it every single

day. We have spent \$¼ billion doing it. We broadcast from 3 in the morning until about 7 in the morning and the Cubans routinely block them. The purpose of it was to broadcast—under what is called Television Marti—and to inform the Cubans about how wonderful freedom is. They are pretty well aware of that by listening to Miami radio stations. And we know they understand freedom because they get on rafts trying to find their way to this country. But we have Television Marti, which is a big group of people that is pretty well funded, about \$20 million a year, or \$25 million a year now, and so we send television signals to the Cuban people that they can't see. We first did it with a big blimp called Fat Albert, way up in the air shooting signals down that the Cubans could block. Then Fat Albert got off its tethers and landed in the Everglades, and what a mess that was. Then they bought an airplane and they send the signal by flying these planes, which the Cubans routinely block.

I have offered amendment after amendment after amendment to try to stop spending to send television signals to no one, but you can't get it done. Isn't that unbelievable? I will continue to do that because that is an area of spending, it seems to me, where it takes a nanosecond of thought to say: That is just stupid. That is just dumb. So stop it. Except government doesn't quite work that way, or that well.

But if the Pryor amendment is offered tomorrow, I fully intend to support that aggressively because we are on an unsustainable path. Most of us know how we got here, but not everybody yet knows how we are going to get out of it, and I think that is a decent step in the right direction. I would say that the Sessions-McCaskill amendment is seriously deficient and is not, in my judgment, the serious way to address what is a very serious problem.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

IN PRAISE OF JEFFREY AMOS, MARVIN CARAWAY, JR., AND COLIN RICHARDS

Mr. KAUFMAN. Mr. President, I rise once more to highlight some of our Nation's outstanding Federal employees. I have spoken before about those who, in serving our Nation, place their lives in danger in order to protect others. On March 4, a lone gunman opened fired near the main entrance to the Pentagon, wounding two security officers before being quickly subdued. These two officers and a third who assisted them provide an example of the bravery and excellence of Federal employees, and especially Federal employees in law enforcement who take risks every day.

These three men all worked for the Pentagon Force Protection Agency,

which oversees security for the Defense Department's headquarters as well as several other Defense facilities in the Washington area. It was created after the attacks of September 11, 2001, to provide comprehensive threat prevention for one of the buildings targeted on that fateful day. Like those serving in other law enforcement and security agencies, the men and women of the Pentagon Force Protection Agency undergo rigorous training. Many are veterans of the Armed Forces or have worked previously as police officers for States and municipalities. They train to be ready at a moment's notice for scenarios they pray will never come. Often these security officers will stand at a checkpoint for hours at a time at the ready during days and weeks and months of quiet.

As a youth, I worked two summers as a lifeguard in Philadelphia, and we always used to say it was hours of boredom interspersed with seconds of sheer terror. Well, sheer terror happened for these great Federal employees. For these three officers from the Pentagon Force Protection Agency such a moment came just before 7 o'clock in the evening of March 4, 2010.

Officers Marvin Caraway, Jr. and Colin Richards were standing guard at the main entrance to the building—the Pentagon—when a suspicious figure approached. Marvin sensed something was amiss, so he walked toward him to check out his identification. When the man pulled a gun from his jacket and began firing, one of the bullets grazed Marvin's thigh. Undeterred, he held his ground and fired back. Later, his fellow officer would tell reporters that Marvin was like "Superman"—"a man of steel."

Colin ducked behind a barricade and began to return fire. Hearing the shots, a third officer, Jeffrey Amos, ran over from his post nearby and joined the effort to subdue the gunman. In the process, he was wounded in the shoulder. The whole incident took only a minute and the three officers fatally shot the assailant.

The quick reaction and undeterred professionalism of these three are inspiring. All brought to the job a strong background in law enforcement and public service. Marvin, who lives in Clinton, MD, is a former marine, who served in the first Persian gulf war, and has experience protecting our embassies overseas. Jeffrey, from Woodbridge, VA, is a retired member of the Air Force Reserve. He spent 11 years in the New Orleans Police SWAT team.

Colin, who resides in Arlington, VA, recalled how his experience and training prepared him to act quickly. He said: "My vision was big; my hearing—I could hear everything. When the shooter started running, he looked like a big target. At that point I felt like I couldn't miss."

Federal security officers, such as Marvin, Jeffrey, and Colin, are our modern-day "Minutemen"—trained

and ready to keep us safe from threats to our liberty and security. We owe all of them our constant appreciation.

I must add that we see the same dedication and professionalism right here each day in our very own Capitol Police force as well. I know how proud Majority Leader REID is of his own service as a Capitol Police officer when, as a young man, he stood guard at one of the entrances to this building.

I hope my colleagues will join me in thanking Marvin Caraway, Jr., Jeffrey Amos, and Colin Richards for their bravery and a job well done—as well as all those who serve as Federal security officers standing at the ready. They are reminders of our great Federal employees.

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

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, so ordered. The Senator from Illinois.

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

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

#### NEW PHILADELPHIA

Mr. BURRIS. Mr. President, in 1777, when our Republic was just a year old and the Revolutionary War was raging, a man named Frank McWorter was born in South Carolina.

In 1795, when the war was over and George Washington was President, he moved to Kentucky. He married a woman named Lucy.

And in 1830, he and his family moved to Illinois—the very same year that a man named Thomas Lincoln, along with his son Abraham, moved to there from Indiana.

Frank McWorter decided he would settle down, and so he bought a farm in Pike County's Hadley Township, and he began to plan out the town of New Philadelphia. Other settlers moved in. Soon, there were family homes, businesses, and even a school.

And when Frank McWorter died of natural causes in 1854, having lived more than three-quarters of a century, he died in the town he founded and guided to prosperity.

The community of New Philadelphia continued to thrive until it was bypassed by the expanding railroad in 1869. Left behind by the steam engine, and the wave of expansion it pushed across the western frontier, the residents of New Philadelphia began to disperse by the late 1880's, and the town gradually disappeared again into the Illinois prairie.

The story of Frank McWorter and New Philadelphia is an extraordinary one.

But as I told this story a moment ago, here on the Senate floor, I left out one defining detail.

If Frank McWorter had been a farmer, or a banker, or a soldier, his tale would be remarkable because of the era in which he lived—but in many ways, he would have been no different from thousands of others who grew up in the early days of our country.

But Frank McWorter's story is extraordinary because he was not a farmer, or a banker, or a soldier—no, he was a slave.

When he moved to Kentucky in 1795, he did not go voluntarily. He went with his owners. On the day he met Lucy, his future wife, the two of them were slaves on neighboring farms.

Eventually, Frank was allowed to work odd jobs, and hire out his own time and labor. He learned to mine a major component of gunpowder, which proved profitable.

By 1817, he had earned enough money to purchase freedom for his wife. And in 1819, he bought his own freedom—and set out to build a life for himself, as a free American. That is the story of Frank McWorter.

So, when he started the town of New Philadelphia in 1836, he accomplished something truly remarkable and unique. He became the first known free African American in history to legally found and plan a town.

And he used the proceeds from land sales to purchase freedom for 15 of his family members.

I invite my colleagues to imagine what life must have been like in New Philadelphia in the mid-1800s. In pre-Civil War America—in a time when this country still legally permitted slavery—New Philadelphia, IL, was a place where people of all races lived and worked side by side.

Federal census records indicate that the town was populated by teachers, blacksmiths, merchants, cabinet-makers, and shoemakers. There was a seamstress, a doctor, a wheelwright, and a carpenter. New Philadelphia even had its own post office, which also served as a stagecoach stop.

Imagine what we could learn from studying this unique place, which existed during such an important time.

An in-depth study of New Philadelphia could yield important information about what life was like in an integrated community during that period. It could add new dimensions to our understanding of the history we share.

I urge my colleagues to join with me in preserving this historic site, which was designated a National Historic Landmark last year.

But I believe it's time to take the next step to ensure that the extraordinary story of Frank McWorter and New Philadelphia is preserved for generations to come.

I ask my colleagues to support S. 1629, a bill I have introduced to direct the Secretary of the Interior to begin a Special Resource Study, which would determine whether the New Philadelphia site can be managed as a unit of the National Park Service.

Today, not much remains of the structures where the town's residents

lived and worked. For passersby, the site is an open field just southeast of Springfield, IL.

But in 2004, a three-year National Science Foundation grant allowed archaeologists to explore this site for the first time. They found building foundations, wells, pit cellars, and a total of more than 65,000 artifacts. They recognized that these exciting discoveries have the potential to yield even more information.

And if we pass this bill, and allow the Secretary of the Interior to evaluate the national significance and suitability of this site, we could pave the way for its preservation as part of the National Park Service.

We can re-discover the incredible history that has been hidden among the prairie grass for more than a century.

We can reclaim the spirit that drove Frank McWorter—a man born into slavery—to reach for equality and opportunity, to establish himself and his family as free African Americans, in a time when freedom was extremely hard to come by, and to establish a thriving community—a place of inter-racial peace and cooperation—in a dark period for race relations in America.

I believe we must act to preserve this legacy. I believe we owe it to ourselves—and to future generations of Americans—to examine the history of New Philadelphia, and the life of pioneers like Frank McWorter.

Let us pass S. 1629, so we can better understand those who came before us. In the process, I have no doubt we will discover some remarkable things about ourselves.

I yield the floor.

#### SOCIAL JUSTICE

Mr. SANDERS. Mr. President, as a result of the greed, recklessness, and illegal behavior by a small number of executives on Wall Street, the American people today are suffering through the most serious economic conditions we have seen since the Great Depression of the 1930s. Since the recession started in December of 2007, 8.4 million Americans have lost their jobs and, while the official unemployment rate is 9.7 percent, according to the latest Gallup Poll, nearly 20 percent of the American workforce is either unemployed or underemployed. In other words, we have people who are working, but they are working 20 hours when they need to be working 40 hours.

Further, long-term unemployment is soaring. Today, over 6 million Americans have been unemployed for over 6 months, the highest on record. This is not a situation where people are losing their jobs and a few weeks later they go out and get another job. People are losing their jobs and they cannot find another job, which is why it is so important that we extend unemployment benefits and so reprehensible that there are those in this Chamber who have resisted that effort.

Today, there are fewer jobs in the United States than there were in the year 2000, even though the workforce

has grown by 12 million since that time.

Today, we have the fewest manufacturing jobs than at any time since April 1941, 8 months before the start of World War II.

Today, home foreclosures are the highest on record, turning the American dream of home ownership into an American nightmare for millions of our people.

Further—and we do not discuss this enough—in the United States today, we have the most unequal distribution of wealth and income of any major country on Earth. That means that while the middle class is in rapid decline, while poverty is increasing, the gap between the people on top and everybody else is wider than in any other major country on Earth and growing wider.

The reality is, today the top 1 percent now earns more income than the bottom 50 percent and the top 1 percent owns more wealth than the bottom 90 percent. Meanwhile, while the folks on Wall Street give themselves tens and tens of millions of dollars in bonuses for having destroyed our economy, the United States has, by far, the highest rate of childhood poverty among major countries. Almost one-quarter of our children today are dependent on food stamps. Approximately 19 percent of our kids are living in poverty, and one out of four kids in the United States, in order not to be hungry, is dependent on food stamps.

While the Fed Chairman, Ben Bernanke, recently talked about how “the recession is likely over,” I urge him to meet with America’s blue-collar workers or those few people left who do manufacturing in this country. As the Boston Globe reported several months ago:

The recession has been more like a depression for blue-collar workers, who are losing jobs much more quickly than the nation as a whole. . . . [T]he nation’s blue-collar industries have slashed one in six jobs since 2007, compared with about one in 20 for all industries, leaving scores of the unemployed competing for the rare job opening in construction or manufacturing, with many unlikely to work in those fields again. . . .

Up to 70 percent of unemployed blue-collar workers have lost jobs permanently, meaning their old jobs won’t be there when the economy recovers. . . .

That is a staggering fact.

So when talking about the recession hurting people, it is hurting some of the people who already are in the most serious trouble; people who do not have a whole lot of money to begin with. That is what is going on in the real world today. But, sadly and significantly, what is going on today simply is an acceleration of what was going on the previous 8 years. It is not like, oh, times were good, the middle class was doing well, and, oops, the reckless behavior of Wall Street plunges us into a major recession.

What is not talked about enough is that this continues and accelerates a trend that has been going on for a number of years. During the 8 years of

the Bush administration, here is what happened: Over 8 million Americans slipped out of the middle class and into poverty. Over 7 million Americans lost their health insurance.

Our Republican friends are vehemently objecting to us going forward in terms of health care. When they had the power, when they had the Presidency, when they had control over the House and the Senate, during that period millions of Americans lost their health insurance. Do you recall them coming forward and saying: We have to do something about this crisis; more and more people are losing their insurance; more and more people are unable to afford their insurance? I did not hear a word. But they are very vocal now. They are very loud: Stop it. We cannot do anything. No. No. No. They had their chance, and it is sad to say that right now, all they can do is play the obstructionist role and be the party of no.

I make this point not to just relive history but to understand where the anger comes from today. It is not just in the last year and a half millions more people lost their jobs, lost their health insurance. During the 8 years of President Bush, median household income declined by over \$2,100—\$2,100. So people came out of that period, from 2000 to 2008, staggering. They were earning less than they did before that decade began, and then they walked into the greed and recklessness of Wall Street, which created a massive recession.

The Washington Post reported last January: The past decade was the worst for the U.S. economy in modern times. That was before the Wall Street crash.

Let me say it again. The Washington Post last January: The past decade was the worst for the U.S. economy in modern times. It was, according to a wide range of data, a lost decade for American workers—a lost decade for American workers.

There has been zero net job creation since December 1999. Imagine that. Since December 1999, the country has grown zero jobs. Middle-income households made less in 2008, when adjusted for inflation, than they did in 1999. The number is sure to have declined further during a difficult 2009.

So there you have it. You want to know why people are angry, why people are frustrated, why people are pointing their finger at Washington and us and saying: Hey, we are in trouble: massive unemployment; real wages have gone down; people are working incredibly hard, if they are lucky enough to have a job; and, at the end of the day, they are worse off than they were 10 years ago.

According to a September 2009 article in USA Today—this is quite incredible—and these are statistics that we do not talk about enough: from 2000 to 2008, middle-class men experienced an 11.2-percent drop in their incomes. Can you imagine that. From 2000 to 2008,

middle-class men experienced an 11.2-percent drop in their incomes, which amounts to a reduction of \$7,700 after adjusting for inflation.

So imagine that you work hard for 8 years. At the end of those 8 years, you have lost \$7,700. Even worse, the USA Today article goes on to report that many age group Americans are poorer today than they were in the 1970s. We talk about the American dream and that parents work hard so that their kids will do better than they did.

Well, we are moving in the wrong direction. Today the average American worker, or at least millions of American workers, in terms of inflation-accounted-for dollars are worse off than they were in the 1970s.

Without going through all of the reasons the middle class is collapsing and poverty is increasing, without going into great length about the growing gap between the very rich and everyone else, I think it is important to say a few words about our good friends on Wall Street, people who have made it clear to everybody in this country that the only thing they care about is making as much money as they possibly can in any way they possibly can.

Recently, in the last several years, 40 percent of all profits in this country went to the relatively few people in the financial industry—40 percent of the profits. We have seen hedge fund managers and owners earning billions of dollars. We have seen CEOs of major Wall Street banks being worth hundreds and hundreds of millions of dollars, all the while the middle class collapsed.

We have the highest rate of childhood poverty. Millions of people are losing their health insurance.

We talk about people living in a gated community, people living in very expensive homes protected by armed guards and surrounded by gates, driving around in their chauffeured limousines, getting into their private jets, having no clue about what is going on in the real world. That is what Wall Street is about. They are engaged in producing esoteric financial instruments which very few people understand which are producing nothing real in the real world. They are not creating real jobs. They are not creating real products, real services. They are a gambling casino whose function in life is to make more money for the people who own that casino.

Now, after we deal with health care, and I hope we can finish that as soon as possible, the issue of financial reform is going to come into this Chamber. I hope very much that we can respond to the frustration and the anger of the American people about what Wall Street has done and promise them, through legislation, that those people will never again get away with the crimes they have committed against the working families of this country.

Let me suggest a few of the areas I think a serious and real financial reform bill should address. Every week I

hear from constituents in Vermont, and I suspect you hear from constituents in Illinois who say: How in God's name can these large financial institutions we bailed out with our tax dollars now charge us 25 or 30 percent interest rates on their credit cards?

I hear this all of the time. And let's be clear. When a large bank—and about two-thirds of the credit cards in this country are issued by the four largest financial institutions in America—when a large financial institution is charging a working American 25 or 30 percent interest on their credit cards, we have to be very clear and call that what it is. That is loan sharking; that is usury; that is immoral.

The Bible, in all of the major religions—Christianity, Judaism, Islam, all of them—talk about the fact that usury is immoral; that you cannot lend money at excessive rates to struggling people who need that money to survive. That is what is happening today.

The loan sharks today are not gangsters out on the street who break kneecaps. These are guys in three-piece suits who, in some cases, make hundreds of millions of dollars a year by stealing money from working people through excessively high interest rates.

The middle class is collapsing, poverty is increasing, and often, in order to deal with the day-to-day needs of a family, whether it is food, whether it is gas to get to work, whether it is money to heat their homes, people are using credit cards. To be charged 25 or 30 percent is simply immoral, in my view, and it is something that has to be eliminated.

As you know, a number of States all over the country have passed usury laws. But as a result of the Marquette Supreme Court decision a number of years ago, these credit card companies go to certain States—South Dakota—where there are no usury laws and charge anything they want, all over the country. They have nullified State usury laws.

Well, you know what. We need a national usury law. We have to say straight out it is immoral; it is wrong to be charging working people 20, 25, 30, 35 or more percent interest rates on their credit cards. As part of any serious finance reform legislation, the American people have to know we are going to end usury.

My view is—and I have introduced legislation to this effect—that we should do for the private banks what we do with credit unions right now: 15 percent max, except under certain circumstances, which now take them up to 18 percent. No more 25 percent. No more 30, 40, 50 percent. No more payday lending. We are going to end that.

I think that has to be incorporated into any serious financial reform legislation. Any part of a serious financial reform bill has to deal with the need to increase transparency at the Federal Reserve.

I will never forget, about a year ago, the Chairman of the Fed, Ben

Bernanke, came before the Budget Committee on which I serve. I asked him if he could tell us which banks received trillions of dollars in zero interest or almost-zero interest loans, trillions of dollars, placing the taxpayers of this country at risk.

Mr. Bernanke said: No, I am not going to tell you that. Well, we have introduced legislation to demand that he tell us. The American people have a right to know which financial institutions have received trillions of dollars in loans. One of the great scams of our time—you want to talk about welfare. There is abuse. These are "welfare queens." We have heard that expression before. Those guys are getting zero-interest loans from the Fed, or maybe they were paying one-half of 1 percent, and then they go out and lend that money to the Federal Government, they buy government securities at 3½ or 4 percent, having taken money from the government at zero percent or half a percent. How is that? You get a nice spread there. You have a 3-percent spread on that. The money that you are lending is guaranteed by the faith and credit of the United States, never once failed. That is a pretty good deal. We give you money at zero interest, and you go out and get guaranteed money at 3 percent. Not a bad deal. That is welfare for billionaires, and that is unacceptable.

We have a right to know which financial institutions are engaged in that. Most importantly, we have to end that right now. So we need transparency at the Fed. They cannot continue to operate in that kind of secrecy.

We also have to end the too-big-to-fail phenomena. Here is a fact that I think many Americans do not know; that is, while we bailed out Wall Street because institutions were too big to fail—if they went down, they would take the whole economy with them—well, guess what. A year later, three out of the four financial institutions are bigger today than before we bailed them out.

Now, what am I missing? It does not make a whole lot of sense to me. Not only that, not only are they a greater danger to the economy today than they were before, but there is something else which is going on which we also do not talk about too much. Maybe as the only Independent in the Senate—I am not a Democrat or Republican. Maybe it is my job to be raising these issues, but somebody has to raise them; that is, the top four financial institutions in this country have enormous amounts of economic power over this country.

As I mentioned earlier, they issue two-thirds of all of the credit cards in this country. Does that sound like a very competitive situation to you? The four largest financial institutions issue two-thirds of the credit cards in America. I do not think that is a healthy thing for our economy.

So not only do we have to end this, these huge financial institutions, because they are too big to fail, but we

also have to allow for increased competition within the banking industry, in doing away with this huge concentration of ownership. Not only do the top four—which is JPMorgan Chase, Bank of America, Wells Fargo, and Citigroup—issue two-thirds of the credit cards, they also issue half of the mortgages. I don't think that is a healthy state for this country. We have to start breaking up these guys.

The last point I would make is maybe the most important. In Vermont and all over the country, small and medium-size businesses are in desperate need of capital, of affordable loans so they can better produce the products and services they need and, in fact, create the jobs our economy desperately needs. I am sure the case is similar in Illinois, but in Vermont, I have small businesses coming into my office saying they can't get the credit they need to expand and create jobs.

You have Wall Street operating as a gambling casino, selling and playing with esoteric financial instruments. It is time they started investing in a productive economy and creating jobs.

The American people are hurting. They are suffering through a terrible moment economically. People are wondering whether, for the first time in the modern history of America, our kids will have a lower standard of living than their parents. This is the reverse of what the American dream is about. People are wondering how they will be able to afford to send their kids to college, how they will pay for childcare, how they will pay for the mortgage on their home, when they are either losing their jobs or real wages are going down.

They are looking to Washington. They are becoming increasingly frustrated by the Republican party of no which seems to gain satisfaction every time they can stop legislation which attempts to address real problems, whether it is health care, jobs, extending unemployment benefits. It is no, no, no from the Republicans.

The American people are beginning to catch on that there have been a record number of filibusters in this session, a recordbreaking number of obstructionist tactics. What the American people are saying is: Hey, Congress, Mr. President, we are hurting. We need action or else the middle class is not going to survive.

As difficult as it is, as much as we understand that when we deregulated Wall Street, they spent \$5 billion in 10 years in lobbying and campaign contributions, making sure the Congress did what Wall Street wanted—in 2009, Wall Street spent \$300 million on lobbying. I don't know how you spend \$300 million on lobbying. There are 100 Members in the Senate and 435 in the House. These guys will spend and spend and spend to make sure Congress does nothing to prevent them from going on their merry way of doing whatever they want without any serious kind of regulation.

In these difficult moments, I hope the Senate and the House will summon the courage to do the job we were elected to do and what we are paid to do, and that is to represent working families and the middle class and not only big money and Wall Street.

AMENDMENT NO. 3548

Mr. SANDERS. Mr. President, I ask unanimous consent that amendment No. 3548 be designated as a Pryor amendment.

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

Mr. MCCAIN. Mr. President, earlier today the senior Senator from Oklahoma incorrectly claimed that an article entitled, "McCain Breaks Own Pork Rule" that ran in Roll Call on November 6, 2003, proved that I had broken my pledge against requesting earmarks. However, the Senator failed to mention that Roll Call subsequently ran a correction to this article on November 17, 2003, stating that, "the article inaccurately stated that Sen. John McCain (R-Ariz.) violated his own rules against so-called "pork barrel" spending." I ask unanimous consent that the entirety of the original story and, more importantly, the correction published in Roll Call be printed in the RECORD.

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

[From Roll Call, Nov. 6, 2003]

CORRECTION APPENDED

(By Emily Pierce)

After years of crusading against "pork-barrel" spending projects in Congressional appropriations bills, Sen. John McCain (R-Ariz.) may be breaking his own rules.

McCain pushed for, and got, \$14.3 million for Arizona's Luke Air Force Base inserted into the just-completed fiscal 2004 military construction appropriations conference report.

The only problem is the project to acquire more land near the base was not requested by President Bush or fully authorized by the Senate Armed Services Committee—two of McCain's criteria for identifying so-called "pork."

"Even though this project is in clear violation of the McCain rule because it was not authorized nor requested, we are happy to provide the funds at his request and the request of other members of the Arizona delegation," said House Appropriations Committee spokesman John Scofield.

Scofield also noted that the provision may violate other tenets of McCain's "pork" rules because the purpose of the funds—to acquire land to prevent the encroachment of residential development near the base's live-fire range—is not included in Defense's long-term strategic plans and may not be achievable within a five-year time frame.

Senate Appropriations Chairman Ted Stevens (R-Alaska), who has bitterly fought McCain's repeated attempts to strike even the smallest of pork projects during Senate floor debate on appropriations, was blithe about the news that McCain had secured an earmark for his own state.

"One man's pork is another man's alternate white meat," said Stevens. "We don't discriminate. . . . If he asked for it, we put it in."

McCain defended his actions, saying he first sought authorization for the measure in

the fiscal 2004 Defense Department authorization bill.

"The fact that the appropriations bill may [be sent to the president] before the authorization bill is not relevant to my point of view, because we did the authorization before we did the appropriations bill," McCain said of the order the bills came to the Senate floor.

McCain, who sits on the Armed Services Committee in charge of devising the Defense Department authorization, said he has little control over the process once it passes the Senate floor.

"It was my job to get it authorized," he said. "So I had no involvement after that."

Part of the problem is that the Defense authorization bill, which gives the Appropriations committees the official authority to dole out money to the Pentagon, has been stalled in conference negotiations for months over various issues, most notably McCain's insistence that an Air Force-Boeing lease deal be scrapped.

McCain has charged that the Boeing deal to lease 100 tanker planes over several years would cost much more than simply buying the planes outright. Meanwhile, the Defense Department has argued that the plan will expend less money in the short-term and that they don't currently have enough money to buy the planes.

While Armed Services negotiators in both chambers say they have made some progress toward resolving their differences on the Boeing lease deal and other issues, it is unclear whether the bill will actually become law this year.

CORRECTION: NOV. 17, 2003

The article inaccurately stated that Sen. John McCain (R-Ariz.) violated his own rules against so-called "pork barrel" spending. The Senate Parliamentarian's office maintains that the provision was properly authorized in the Senate-passed version of the fiscal 2004 Defense authorization bill and did not need to be signed by the president to be considered "authorized," as the article suggested. Sen. Kay Bailey Hutchison (R-Texas), chairwoman of the Appropriations subcommittee on military construction, told Roll Call that McCain never specifically asked her to put the \$14.3 million project for Arizona's Luke Air Force Base into the fiscal 2004 military construction bill.

#### MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### HONORING OUR ARMED FORCES

SERGEANT VINCENT L.C. OWENS

Mrs. LINCOLN. Mr. President, today I honor Sergeant Vincent L.C. Owens, 21, of Fort Smith, who died on March 1 in Afghanistan from injuries sustained in combat. My heart goes out to the family of Sergeant Owens, who made the ultimate sacrifice on behalf of our Nation.

According to those who knew him best, Sergeant Owens was a gifted student who enjoyed attending school in Greenwood, Fort Smith, and Van Buren. He also was an avid athlete who liked to play soccer and football. His

hobby was motorcycles, with a special interest in trick riding.

Sergeant Owens' awards and decorations include two Army Commendation Medals; two Army Achievement Medals; a Valorous Unit Award; a National Defense Service Medal; an Iraq Campaign Medal; and a Global War on Terrorism Service Medal. He is survived by his wife Kaitlyn Owens; his mother Sheila Real of Spiro, OK; his father Keith Owens of Missouri; a stepson Paxton Lee Owens; one sister; and three brothers.

Along with all Arkansans, I am grateful for Sergeant Owens' service and for the service and sacrifice of all of our military servicemembers and their families. More than 11,000 Arkansans on active duty and more than 10,000 Arkansas reservists have served in Iraq or Afghanistan since September 11, 2001.

It is the responsibility of our Nation to provide the tools necessary to care for our country's returning servicemembers and honor the commitment our Nation made when we sent them into harm's way. Our grateful Nation will not forget them when their military service is complete. It is the least we can do for those whom we owe so much.

SERGEANT JONATHAN J. RICHARDSON

Mr. President, today I also honor Sergeant Jonathan J. Richardson, 24, of Bald Knob, who died from combat wounds incurred in Khowst Province, Afghanistan. My heart goes out to the family of Sergeant Richardson, who made the ultimate sacrifice on behalf of our Nation.

Sergeant Richardson is survived by his grandparents, Ken and Edna Martin of Mountain Home, AR; his wife Rachel Richardson of Clarksville, TN; his mother Sharon Dunigan of Bridgeport, WV; and his father Jeffery Richardson of Germany.

Along with all Arkansans, I am grateful for Sergeant Richardson's service and for the service and sacrifice of all of our military servicemembers and their families. More than 11,000 Arkansans on active duty and more than 10,000 Arkansas reservists have served in Iraq or Afghanistan since September 11, 2001.

It is the responsibility of our Nation to provide the tools necessary to care for our country's returning servicemembers and honor the commitment our Nation made when we sent them into harm's way. Our grateful Nation will not forget them when their military service is complete. It is the least we can do for those whom we owe so much.

#### VOTE EXPLANATION

Mr. CRAPO. Mr. President, during two votes this morning, I was unavoidably absent and unable to cast my vote. Had I been present, I would have voted as follows: No—The motion to waive the Budget Act with respect to the House message to accompany H.R.

2847, the HIRE Act. No—The motion to concur with the House amendments to H.R. 2847, the HIRE Act.

#### HEALTH CARE

Mr. BURRIS. Mr. President, I rise today to call attention to the important and essential role that health care professionals play in providing quality health care across our Nation. Our Nation's health care system is complex and people with many different health needs are served by the diverse group of caring, qualified professionals in the allied health fields. Some of these important health practitioners include respiratory therapists, music therapists, athletic trainers, clinical laboratory scientists, radiologic technologists, medical assistants and many others. There are more than 100 distinct occupations in the health professions, in addition to physicians and nurses.

These dedicated health professionals are expert in a multitude of therapeutic, diagnostic, and preventive health interventions and wellness initiatives in diverse settings. These professionals work in disease prevention and control, dietary and nutritional services, mental and physical health promotion, rehabilitation and health systems management. They can be found in community, school and athletic training clinics, long-term and rehabilitation facilities, hospitals, laboratories, hospice, and private homes.

These health professionals represent about 60 percent of the health care workforce and approximately 6 million jobs. According to the Bureau of Labor Statistics, 10 of the 20 fastest growing occupations for 2008–2018 are in the health professions.

With many of these fields facing critical workforce shortages, it is essential that we work to increase awareness of the great career opportunities they offer, especially for racial/ethnic minorities. We also need to support the educational programs that will produce our future caregivers. Recent stimulus funding, for example, will go to train 15,000 people nationwide in job skills for careers in health care, IT, and other high-growth fields. In Park Forest, IL, Governors State University will use its \$4.9 million grant to help unemployed, dislocated, and low-wage incumbent workers pursue careers in health care.

I strongly support the vital role health care professionals play in our health care system, which could not function without their tireless efforts. I urge my colleagues to join me in recognizing this important group of professionals.

#### TRANSPARENCY AND SUNSHINE WEEK

Mr. CARDIN. Mr. President, this week we celebrate Sunshine Week, not as a seasonal way to welcome the spring weather but as a time to mark the importance of transparency in our government.

At the U.S. Helsinki Commission we monitor 56 countries, including the United States, to ensure compliance with human rights and other commitments made under the Helsinki Final Act.

A major part of that compliance rests on governments being open and acting transparently—the same focus that is at the heart of the American Society of Newspaper Editors' Sunshine Week.

Practicing open governance is not something countries, States, and cities should do because they have to comply with some international agreement or public records law; rather, being transparent should be an organic part of providing a democratic government and empowering citizens.

When President Obama began his Presidency he called for unprecedented transparency. In his Open Government Directive, he outlined a clear plan for government to become more transparent, participatory, and collaborative.

The logic is clear—only through transparency can people gain the knowledge needed to participate and hold their governments accountable. And only if the people participate can government collaborate with them to glean the best ideas.

This directive was bold and action-oriented, but sadly we have not seen the U.S. bureaucracy react with the same swiftness with which this directive was made. Most agencies, in fact, have not made concrete changes to comply with the directive, according to a government-wide audit released earlier this week by the National Security Archive based at the George Washington University.

It seems for all the White House is doing disclosing its visitors log, broadcasting policy meetings, increasing interactivity through townhall meetings and YouTube interviews—a lot of work remains at the agencies.

Most glaring to me are the delays and in some cases outright denials of Freedom of Information Act requests. I was surprised to learn in the National Security Archive audit that some requests have been pending for 18 years when the law very clearly calls for responses within 20 business days when possible.

Most baffling from the audit may be what files still remain locked in government vaults. For example, today—more than 20 years after the fall of the Berlin Wall—the Pentagon still has not responded to a request for records detailing the military's reaction in 1961 to the building of the wall.

When it comes to diplomacy, this President and Secretary of State Clinton deserve great praise for the work they have done around the world to strengthen dialogue and improve U.S. relationships abroad. This successful record, however, is slightly tarnished by the Department of State's efforts on open governance. The Department more than doubled the number of denials it issued to people filing Freedom of

Information Act requests last year—the largest increase of any agency except for the Social Security Administration, which tripled its denials.

Fourteen months is a short time to change a bureaucracy charged with managing countless records. But a handful of agencies have already shown it is possible and committed to open government changes. On top of other positive reforms, the Departments of Agriculture and Justice, the Small Business Administration, and the Office of Management and Budget all increased how much information they released and decreased how many requests they denied last year. These agencies have embraced the spirit of transparency ushered in by President Obama, and as we mark Sunshine Week, I hope others will follow suit with their own innovative ways to increase transparency and spur citizen involvement. And once agencies adopt these practices, I hope they stick with them—not because they fulfill any Presidential directive but because they give us a better democracy.

#### TRIBUTE TO MITCH ALBOM

Mr. LEVIN. Mr. President, 25 years ago, an article appeared in the Detroit Free Press sports section headlined, “Give Me a Sporting Chance, And I’ll Give It Right Back.” It was the debut column from a young writer just arrived from Florida, and he admitted to some nerves about writing for his new audience. “Starting tomorrow, I ask your attention, your reaction, your letters, your laughter and, once in a while, the benefit of the doubt,” he wrote.

I doubt many Free Press readers knew that morning that they held the beginning of a journalistic legend in their hands. And the writer himself surely didn’t know what he was starting. But thousands of columns, millions of laughs, more than a few tears, 28 million books, and dozens of awards later, Free Press sports columnist Mitch Albom has become a Detroit institution right alongside the beloved athletes he has covered.

Recently, it was announced that Mitch Albom will receive the ultimate award for a sportswriter, the Red Smith Award from the Associated Press Sports Editors. Smith, the legendary New York writer, once said his demanding craft was really simple: “All you do is sit down at a typewriter and open a vein.” And Mitch Albom is a worthy successor to that legacy of writing with heart and emotion as well as style and precision. In thrilling victories and painful losses, fans of Michigan’s sports teams have seen 25 years of sports history through Albom’s observant eyes. They have gotten to know the State’s towering sports figures—be they heroic, tragic, or both—through Albom’s perceptive character sketches.

That careful attention to the human element of sports allowed Albom to

branch out into other areas. His “Tuesdays with Morrie” is one of the 100 best-selling books of all time. He is one of Michigan’s most listened-to radio hosts, and a regular on ESPN television. And as his success has grown, so have his contributions to his community. His charitable endeavors include efforts to help disadvantaged students study the arts, get health care to homeless families, and gather volunteers for worthy local service projects. Recently, he labored mightily and successfully to get aid to earthquake victims in Haiti.

In winning the Red Smith Award, Albom joins a list of the most honored names in sports journalism. The award speaks forcefully to the respect of his professional peers. For Michigan readers, however, Albom’s ongoing legacy is his remarkable writing on the games and athletes who are so much a part of our State’s identity and DNA and his contributions to improving his community. I congratulate him on this latest honor, and I thank him for 25 years of great journalism. The readers of Michigan and the Nation look forward to many, many years more.

#### TRIBUTE TO RON DZWONKOWSKI

Mr. LEVIN. Mr. President, it is a truism, a belief espoused by those of all political parties and persuasions, that the functioning of our democracy depends on an informed citizenry to make wise decisions at the ballot box and hold elected officials accountable.

That means our system depends on careful, thoughtful, impartial journalists, those who bring to their work as much passion for knowledge and understanding as we bring to our advocacy for policies we support. In that difficult and necessary work, few Michigan journalists have succeeded more than Ron Dzwonkowski of the Detroit Free Press, which is why the recent announcement of his selection to the Michigan Journalism Hall of Fame is so well-deserved.

For nearly three decades, Dzwonkowski has served the Free Press as an editor, editorialist, and columnist. His professional peers have awarded him a host of awards, including a Pulitzer Prize and a National Headliner Award for work to which he has contributed. As an editor and writer for the Free Press’s editorial pages, he has shown a remarkable commitment to accuracy, but just as important, a remarkable passion for solving the problems of our city and State.

Whether he is praising an elected official or criticizing one, his writing is grounded in a thorough understanding of the facts and a commitment to looking out, above all, for the interests of Michigan’s citizens. His reporting, writing, and editing have made a significant and lasting difference in the lives of the readers he serves, and his selection to the State’s hall of fame for journalists is a much-deserved reward for a career of distinguished service,

one I hope will continue for many, many years to come.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO BOB SCOTT

• Mr. CARDIN. Mr. President, I would like to take this opportunity to recognize the 80th birthday of a Maryland lacrosse legend, Mr. Bob Scott, a former Johns Hopkins University athlete, coach, and athletic director.

Lacrosse is the official team sport of Maryland and there is perhaps no other Marylander who has done as much for the game as Mr. Scott. His 41-year career at Johns Hopkins, spanning from 1955 to 1995, were years of great success for Hopkins lacrosse as well as Blue Jays athletics in general.

At a university that expects nothing less than dominance on the lacrosse field, Mr. Scott more than lived up to the high expectations. As the head lacrosse coach from 1955 to 1974, Mr. Scott left a legacy that will be hard to match. He led the Blue Jays to an unparalleled seven national championships, his players were recognized as first-team All-Americans an outstanding 42 times, and he left his position with 158 wins, more than any other head coach in program history.

Mr. Scott was a successful lacrosse player for Johns Hopkins from 1948 to 1952 as well. During his playing days, he received national recognition as the winner of the Penniman Award for outstanding play as a midfielder and as an honorable mention All-American.

In addition to his playing and coaching acumen, Mr. Scott also wrote the premier lacrosse book, “Lacrosse: Technique and Tradition,” written in 1976, still sits in lacrosse players’ lockers and on coaches’ desks to this day. The book has since been translated into other languages and has given Mr. Scott the vehicle to become the sport’s unofficial ambassador.

Mr. Scott is more than just a lacrosse legend, however. He helped build Hopkins into the division III powerhouse it is today. During his 22-year tenure as director of athletics, the Blue Jays emerged as national contenders in many different sports—including baseball, basketball, fencing, swimming, and soccer—and Mr. Scott played a pivotal role in successfully developing the women’s athletics program that continues to thrive today.

Most of Mr. Scott’s life has been dedicated to sports, but he also spent 2 years in the U.S. Army after graduating from Johns Hopkins. He rose to the position of instructor in the Ranger Department and was stationed at Fort Benning, GA.

In honor of Mr. Scott’s 80th birthday today—St. Patrick’s Day—I ask my colleagues to join me in recognizing the life of a great Marylander who has served our country and has given so much of his time to help mold our Nation’s student-athletes.●

## TRIBUTE TO ARTHUR E. KATZ

• Mr. ISAKSON. Mr. President, I wish to honor in the RECORD of the Senate an honorable American and a great Georgian, Mr. Arthur E. Katz.

Arthur graduated from the U.S. Coast Guard Academy in 1963. In Vietnam, he served as the commanding officer, USCGC Point Cypress, a unit attached to Division 13, Coast Guard Squadron One, from December 1965 to September 1966. For his meritorious service, Arthur received the Bronze Star Medal, with Combat Distinguishing Device "V".

Arthur attended Rutgers University, where he earned a masters degree in business administration. He is a successful small business owner, and his commitment to volunteerism and community service is evident through his roles as past president of Temple Emanu-El's Board of Trustees and board member of the Marcus Jewish Community Center of Atlanta.

A longtime resident of Sandy Springs, GA, Arthur is an avid tennis player, fisherman, and a committed runner of the annual Peachtree Road Race. A dedicated and loving husband of 46 years, Arthur is the father of three daughters and is blessed with seven grandchildren.

On April 23, 2010, Arthur will be inducted to the Wall of Gallantry at the Coast Guard Academy in New London, CT. I cannot think of anyone more deserving of such an honor than this true champion of patriotism and a countryman, Arthur E. Katz. •

## TRIBUTE TO TERRY LINDSEY

• Mr. ISAKSON. Mr. President, I wish to honor in the RECORD of the Senate Terry Lindsey, who is a great Georgian, a great American, and a great citizen of Polk County. I honor Terry upon his retirement from Engineered Fabrics after 31 remarkable years and for his many contributions to the quality of life in Polk County, GA.

On March 31, 2010, Terry will retire from Engineered Fabrics Corporation in Rockmart, GA. He started with the company in 1979 as the manager of contract management, and he ends his impressive tenure as its vice president of marketing. I know he will be deeply missed by his colleagues at Engineered Fabrics, which is one of the largest employers in Rockmart.

In addition to his impressive career, Terry has a long history of community involvement in Polk County, where he is a well-respected and dedicated leader. Terry is a member of the Rotary and has been active in the Polk County Chamber of Commerce for a number of years. In particular, he has served as an inspiration and a role model to the young men and women in the chambers Youth Leadership committee.

Terry has been a familiar face during the Polk Chambers annual trip to Washington, DC, over the years. He has been instrumental in ensuring mem-

bers of the Polk County delegation had the opportunity to come to Washington and discuss important issues affecting the community with the Georgia congressional delegation through his role as a host or sponsor of these Washington fly-ins.

It gives me a great deal of pleasure and it is a privilege to recognize on the floor of the Senate, Terry Lindsey for his service to Polk County and to our great State of Georgia. He and his wife Jean have earned the many happy years of retirement ahead of them. •

## REMEMBERING PATRICIA MALONE

• Mr. ISAKSON. Mr. President, I wish to honor in the RECORD of the Senate the life of a wonderful lady and a great Georgian, Mrs. Patricia Malone. Her commitment to the aviation industry spanned more than 50 years, affecting thousands of pilots through training standards.

Patricia "Mother" Malone began her introduction into aviation began during World War II when she was a link instrument training instructor for the U.S. Navy, training fighter pilots in instrument flight procedures. After the war, she was a civilian instructor for the U.S. Air Force.

She went to work for Delta Air Lines in 1972 and moved her family from Quincy, MA, to Atlanta, GA. During her long career with Delta, she created the operations specification curriculum for the airline and served as the manager of certificate compliance by the time she retired in 1994.

Patricia affected countless numbers of aviators through her work in aeronautical charting, and she trained pilots from most of the major airlines as well as military pilots. She earned the nickname "Mother" Malone from her pilots because she did more than teach them instrument flying and FAA regulatory compliance; she was truly invested in the lives of those she taught.

During her retirement years she consulted with pilots and airline industry professionals as well as lending her time to volunteering in her community. She selflessly gave her time to the YWCA of Cobb County, the Delta Pioneer, American Business Womens Association, Goodwill Industries, the American Red Cross, and her local board of elections.

Patricia W. "Mother" Malone passed away on August 12, 2008, at the age of 84. She is survived by her daughters, Alison, Peggy and Tricia, nine grandchildren, and one great grandson.

This year, Patricia will be posthumously inducted into the Georgia Aviation Hall of Fame, and I cannot think of anyone more deserving of this honor. It is only right that her accomplishments are permanently enshrined in Georgia's aviation history. •

## TRIBUTE TO THEODORE ELDRIDGE

• Mrs. LINCOLN. Mr. President, today I congratulate Theodore Eldridge of

Moro for receiving the John Gammon Award for his dedication and service to the Arkansas agriculture industry. The award is presented each year by the Arkansas office of the U.S. Department of Agriculture's Farm Service Agency.

Theodore represents the best of our Arkansas values: hard work, dedication, and perseverance. He currently serves as the coordinator of the University of Arkansas at Pine Bluff's 52-Acre Demonstration Farm. He also works part-time for the UAPB Demonstration Outreach Center in Marianna and the East Arkansas Enterprise Community.

I have had the privilege of working closely with Theodore on several projects for the USDA Rural Development Program, where he served as district director in Forrest City, and later as the director of water and wastewater programs.

This past December, I was pleased to announce his appointment to serve on the Arkansas Farm Service Agency State Committee. He has since been elected chairman by the committee and has shown exemplary leadership for our State's farmers and ranchers as he ensures our producers have the tools in place to produce a safe and affordable food supply. Theodore plays a vital role in our State's rural communities as he works to facilitate programs that will spur local economic development. He also oversees and informs local producers about USDA programs.

As a seventh-generation Arkansan and farmer's daughter, and as chairman of the Senate Agriculture Committee, I understand firsthand and appreciate the hard work and contributions of our Arkansas agriculture community. Agriculture is the backbone of Arkansas's economy, creating more than 270,000 jobs in the State and providing \$9.1 billion in wages and salaries. In total, agriculture contributes roughly \$15.9 billion to the Arkansas economy each year.

I salute Theodore and the entire Arkansans agriculture community for their hard work and dedication. •

## TRIBUTE TO ROBERT MOORE

• Mrs. LINCOLN. Mr. President, today I congratulate Arkansas State Representative Robert Moore on his recent selection to serve as Speaker of the House for the next Arkansas General Assembly.

Born in Dumas and raised in Arkansas City, Representative Moore exemplifies our Arkansas values of hard work, dedication, and leadership. Throughout his 25-year career in public service, Representative Moore has worked to keep Arkansas strong. Since 2007, he has proudly served the residents of southeast Arkansas in the Arkansas General Assembly.

Not only is Representative Moore one of our State's dedicated leaders, he has also helped keep the farm family tradition alive in Arkansas. As the owner

and operator of Moore Farms in Arkansas City, he produces rice and soybeans, with an additional focus on wildlife management. He is also a member of the Arkansas House Committee on Agriculture, Forestry and Economic Development.

As a seventh-generation Arkansan and farmer's daughter from Helena, and as chairman of the Senate Agriculture Committee, I understand firsthand and appreciate the hard work and contributions of our Arkansas agriculture community. Agriculture is the backbone of Arkansas's economy, creating more than 270,000 jobs in the state and providing \$9.1 billion in wages and salaries.

Mr. President, I commend Representative Moore and all members of the Arkansas Legislature for their hard work and dedication on behalf of the people of our great State. I commend their efforts, and I remain dedicated to working with them to help keep Arkansas strong.●

#### TRIBUTE TO PEGGY LALLY MUNCY

● Mrs. LINCOLN. Mr. President, today I commend fellow Arkansan Peggy Lally Muncy for raising \$25,000 for the Boys and Girls Club of Central Arkansas.

Peggy recently completed a 7-week, 3,415-mile cross-country bicycle tour from Los Angeles to Boston. Through per-mile monetary pledges made by friends and family, Peggy was able to double her initial goal of raising \$10,000 for the club.

A North Little Rock resident, Peggy represents the best of our Arkansas values of service, compassion, and commitment. Her efforts have helped countless children and youth in central Arkansas take part in activities that promote social, cultural, educational, recreational and physical development.

Volunteer efforts like Peggy's can literally change lives. I salute Peggy and all Arkansans who give back to their communities each and every day. Together, we can make a real difference for the people of our State.●

#### TRIBUTE TO JAMES O. POWELL

● Mrs. LINCOLN. Mr. President, today I pay tribute to the life and career of respected Arkansas journalist James O. Powell, who served as the long-time editorial page editor and columnist for the Arkansas Gazette newspaper. James passed away on March 10 at the age of 90. He is survived by his wife of 58 years, Ruth Powell, and son Lee Powell of Washington, DC, who I have worked with in his role as the executive director of the Mississippi Delta Grassroots Caucus.

During his 30-year tenure at the Gazette, James fought to preserve the journalistic principles of integrity and honesty. Among his memorable writings, James penned a series of editorials during the 1950s and 60s in sup-

port of the civil rights movement and opposing school segregation. He chronicled Arkansas politics with clarity and thoughtfulness, including extensive coverage of Arkansas Governors Winthrop Rockefeller, Dale Bumpers, and Bill Clinton.

After retiring from the Gazette in 1987, James continued to write a syndicated column published in many Arkansas papers until 2000. Through his reporting, Arkansans learned the news of the day, along with insight and analysis, to help them make informed decisions about local, state, and national events.

Mr. President, I honor the life and legacy of James O. Powell for his dedication to Arkansas and his commitment to excellence in journalism. His work helped educate and inspire a generation of Arkansans.●

#### TRIBUTE TO JUDGE MARY ANN GUNN

● Mr. PRYOR. Mr. President, I rise today to congratulate Judge Mary Ann Gunn for her personal commitment and innovative approach to public service in northwest Arkansas. Judge Gunn, who serves on the Washington County Circuit Court, received the 2009 FBI Director's Community Leadership Award.

The award, presented on behalf of the Director of the FBI, was established in 1990 to recognize individuals and organizations for their efforts in combating terrorism, drugs, and violence in America. In addition to her duties as a circuit judge, Judge Gunn voluntarily serves as a judge for the Washington and Madison County Drug Court, in Arkansas. Since 2000, the drug court has accepted first-time, nonviolent drug offenders into a nine month program of intensive counseling and close supervision. When offenders successfully complete the program, their criminal records are cleared of the drug offense.

Judge Gunn's courtroom is one of the most successful in the nation. Her drug court is regularly televised in Washington and Madison Counties, and is an excellent example of how the community, the courts, and law enforcement work together to reduce crime. In addition, she has held drug court sessions in school gymnasiums to show students just where drug use can lead. According to the FBI, Judge Gunn manages "one of the most effective public services available in Northwest Arkansas."

We congratulate Judge Mary Ann Gunn on her personal accomplishment, and we thank her for her commitment to reducing crime and protecting citizens of Arkansas.●

#### RECOGNIZING FUEL

● Ms. SNOWE. Mr. President, restaurants in my home State recently celebrated the second annual Maine Restaurant Week from March 1 through 10. This creative event is designed to offer Mainers and visitors alike the opportunity to spend an

evening out to try a new restaurant at an affordable fixed price. After last year's success, where nearly 98 percent of attendees said the event met or exceeded their expectations, over 100 restaurants participated in this year's celebration. I rise today to recognize one restaurant that took part in Restaurant Week, Fuel, that has helped to lead a renaissance in downtown Lewiston.

In 2005, Eric Agren and his wife Carrie purchased the old Lyceum Hall in downtown Lewiston with the purpose of renovating the 135-year-old theater, which is listed on the National Historic Register. The goal was to transform the theater, vacant for over 50 years, into a cozy, welcoming space while maintaining the historical nature of the building. Mr. Agren, who is originally from the Lewiston-Auburn area, spent several years in Chicago working for a kitchen design company, which piqued his interest in the culinary arts, before returning home to pursue his longtime dream of opening a restaurant. The couple also turned the upstairs of the building into a 5,000-square-foot apartment. Because of the Agrens' dedicated efforts, Fuel received historic preservation awards from the State of Maine and the city of Lewiston, both in 2007.

Fuel's menu features French country cuisine with a close-to-home twist. Starting with French classics like escargot, fondue, and French onion soup, the menu includes an eclectic mix of dishes from braised short ribs and steak frites to roasted chicken and homemade macaroni and cheese. The Agrens describe Fuel's interior décor as "urban cozy," with French vintage art, leather chairs in the bar, and butcher paper topping the tables. The restaurant received a 2008 Editor's Choice Award from Yankee Magazine, as well as Wine Spectator magazine's Award of Excellence for its exceptional wine list of over 100 selections. Fuel has also been the recipient of the Androscoggin County Chamber of Commerce's President's Award and has received recognition as Downeast Magazine's Best Dining in Lewiston.

Since the opening of Fuel, several other restaurants have opened across Lewiston, resulting in a burgeoning revival of the city's downtown. Nearly a dozen new restaurants have entered the Lewiston dining scene in recent years, leading to increased traffic and a more vibrant atmosphere downtown, as well as creating new jobs. Indeed, to continue this trend, the Agrens soon plan to open another restaurant just down Lisbon Street from Fuel called Marché. In the process of refurbishing the building, the couple also created a two-bedroom, 2,000-square-foot apartment upstairs from the restaurant. As Mr. Agren recently explained, he hopes these efforts bring new people to the downtown area, and expects "to see a small core of affiliated businesses sprout up—such as dry cleaners and specialty markets—that would cater to a growing downtown population."

Additionally, over the years, Fuel and other local eateries have participated in numerous community events, raising money for charities like the Sisters of Charity Food Pantry and the American Heart Association. While these restaurants engage in healthy competition, they are also team players when it comes to helping the community.

The renaissance of downtown Lewiston is well-documented, and a welcome sign during these difficult economic times. And Eric and Carrie Agren have played a central role in spurring this critical development. I thank the Agrens for their commitment to the Twin Cities of Lewiston and Auburn, and I look forward to hearing about the continued success of their investments.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 11:08 a.m., a message from the House of Representatives, delivered by Mr. Novotny, 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. 4628. A bill to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the "Sergeant Christopher R. Hrbek Post Office Building".

At 2:10 p.m., a message from the House of Representatives, delivered by Mr. Schiff, a manager on the part of the House to conduct the trial of the impeachment of G. Thomas Porteous, Jr., a Judge for the United States District Court for the Eastern District of Louisiana, announcing that the House has agreed to the following resolutions:

H. Res. 1031. Resolution impeaching G. Thomas Porteous, Jr., judge of the United States District Court for the Eastern District of Louisiana, for high crimes and misdemeanors.

H. Res. 1165. Resolution appointing managers on the part of the House to conduct the trial of the impeachment of G. Thomas Porteous, Jr., a Judge for the United States District Court for the Eastern District of Louisiana.

#### ENROLLED BILL SIGNED

At 4:36 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, an-

nounced that the Speaker has signed the following enrolled bill:

H.R. 2847. An act making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore, Mr. REID, pursuant to the order of today, March 17, 2010.

At 6:20 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4851. An act to provide a temporary extension of certain programs, and for other purposes.

H.R. 4853. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4628. An act to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the "Sergeant Christopher R. Hrbek Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

#### 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-5070. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tetraethoxysilane, Polymer with Hexamethyldisiloxane; Tolerance Exemption" (FRL No. 8814-3) received in the Office of the President of the Senate on March 11, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5071. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "S-Abscisic Acid, (S)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2Z,4E)-dienoic Acid; Amendment to an Exemption from the Requirement of a Tolerance" (FRL No. 8814-5) received in the Office of the President of the Senate on March 11, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5072. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hexythiazox; Pesticide Tolerances" (FRL No. 8813-7) received in the Office of the President of the Senate on March 11, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5073. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Agricultural Inspection and AQI User Fees Along the U.S./Canada Border" (Docket No. APHIS-2006-0096) received in the Office of the President of the Senate on March 16, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5074. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendment to Electric Generating Unit Multi-Pollutant Regulation" (FRL No. 9127-2) received in the Office of the President of the Senate on March 11, 2010; to the Committee on Environment and Public Works.

EC-5075. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Technical Corrections and Clarifications Rules" (FRL No. 9127-9) received in the Office of the President of the Senate on March 11, 2010; to the Committee on Environment and Public Works.

EC-5076. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Mandatory Reporting of Greenhouse Gases: Minor Harmonizing Changes to the General Provisions" (FRL No. 9127-6) received in the Office of the President of the Senate on March 11, 2010; to the Committee on Environment and Public Works.

EC-5077. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Transportation Conformity Rule PM2.5 and PM10 Amendments" (FRL No. 9127-7) received in the Office of the President of the Senate on March 11, 2010; to the Committee on Environment and Public Works.

EC-5078. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Chile Earthquake Occurring in February 2010 Designated as a Qualified Disaster under §139 of the Internal Revenue Code" (Notice 2010-26) received in the Office of the President of the Senate on March 16, 2010; to the Committee on Finance.

EC-5079. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Deemed Dispositions by Individuals Emigrating from Canada" (Rev. Proc. 2010-19) received in the Office of the President of the Senate on March 16, 2010; to the Committee on Finance.

EC-5080. 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-2010-0003) received in the Office of the President of the Senate on March 16, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5081. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67)(Docket No.

FEMA-2010-0003)) received in the Office of the President of the Senate on March 16, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5082. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2010-0037—2010-0046); to the Committee on Foreign Relations.

EC-5083. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Name Change of Two DHS Components" (CBP Dec. 10-03) received in the Office of the President of the Senate on March 10, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-5084. A communication from the Chairman, Office of General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Funds Received in Response to Solicitations; Allocation of Expenses by Separate Segregated Funds and Nonconnected Committees" (Notice 2010-08) received in the Office of the President of the Senate on March 15, 2010; to the Committee on Rules and Administration.

EC-5085. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the redesignating the Air Force's Small Diameter Bomb Increment I (SDB I) Program as an ACAT II program; to the Committee on Armed Services.

EC-5086. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 10-011, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible effects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC-5087. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 10-002, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible effects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC-5088. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the U.S. engagement with Iran; to the Committee on Armed Services.

#### 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 Mrs. GILLIBRAND:

S. 3131. A bill to direct the Secretary of the Interior to conduct a special resource study to evaluate resources in the Hudson River Valley in the State of New York to determine the suitability and feasibility of establishing the site as a unit of the National Park System, and for other purposes; to the

Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 3132. A bill to amend the Child Nutrition Act of 1966 to promote and support breastfeeding through the special supplemental nutrition program for women, infants, and children; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CASEY (for himself, Mr. SCHUMER, and Mr. SPECTER):

S. 3133. A bill to provide for the construction, renovation, and improvement of medical school facilities, and other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself, Ms. STABENOW, Mr. GRAHAM, Mr. BROWNBACK, Mr. BROWN of Ohio, Ms. SNOWE, Mr. FEINGOLD, Mr. SPECTER, Mr. CASEY, Mr. BAYH, Mr. LEVIN, Mr. CARDIN, Mrs. GILLIBRAND, Mr. WEBB, Mr. REED, Mrs. LINCOLN, and Ms. COLLINS):

S. 3134. A bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; to the Committee on Finance.

By Mr. DURBIN:

S. 3135. A bill to enhance global healthcare cooperation and for other purposes; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 457. A resolution to provide for issuance of a summons and for related procedures concerning the articles of impeachment against G. Thomas Porteous, Jr; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 458. A resolution to provide for the appointment of a committee to receive and to report evidence with respect to articles of impeachment against Judge G. Thomas Porteous, Jr; considered and agreed to.

By Ms. MURKOWSKI (for herself and Mr. BEGICH):

S. Res. 459. A resolution congratulating KICY Radio for 50 years of service to western Alaska and the Russian Far East; considered and agreed to.

By Mr. LEAHY (for himself and Mr. SANDERS):

S. Res. 460. A resolution recognizing the importance of the Long Trail and the Green Mountain Club on the 100th anniversary of the Long Trail; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 334

At the request of Mr. LUGAR, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 334, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova.

S. 704

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 704, a bill to direct the Comptroller General of the United States to conduct a study on the use of Civil Air

Patrol personnel and resources to support homeland security missions, and for other purposes.

S. 910

At the request of Mr. WARNER, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 910, a bill to amend the Emergency Economic Stabilization Act of 2008, to provide for additional monitoring and accountability of the Troubled Asset Relief Program.

S. 1255

At the request of Mr. SCHUMER, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1255, a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to extend the authorized time period for rebuilding of certain overfished fisheries, and for other purposes.

S. 1408

At the request of Mr. MENENDEZ, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 1408, a bill to amend the Internal Revenue Code of 1986 to encourage alternative energy investments and job creation.

S. 1481

At the request of Mr. MENENDEZ, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1481, a bill to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1611

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1611, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 1966

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1966, a bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes.

S. 2743

At the request of Ms. SNOWE, the name of the Senator from Wisconsin

(Mr. FEINGOLD) was added as a cosponsor of S. 2743, a bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War, and for other purposes.

S. 2755

At the request of Mr. MENENDEZ, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 2755, a bill to amend the Internal Revenue Code of 1986 to provide an investment credit for equipment used to fabricate solar energy property, and for other purposes.

S. 2835

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2835, a bill to reduce global warming pollution through international climate finance, investment, and for other purposes.

S. 2847

At the request of Mr. WHITEHOUSE, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 2847, a bill to regulate the volume of audio on commercials.

S. 2974

At the request of Mr. LUGAR, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2974, a bill to establish the Return of Talent Program to allow aliens who are legally present in the United States to return temporarily to the country of citizenship of the alien if that country is engaged in post-conflict or natural disaster reconstruction, and for other purposes.

S. 3036

At the request of Mr. BAYH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3059

At the request of Mr. BINGAMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3059, a bill to improve energy efficiency of appliances, lighting, and buildings, and for other purposes.

S.J. RES. 28

At the request of Mr. DODD, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S.J. Res. 28, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S. RES. 412

At the request of Mrs. GILLIBRAND, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. Res. 412, a resolution designating September 2010 as "National Childhood Obesity Awareness Month".

S. RES. 451

At the request of Mr. BURR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 451, a resolution expressing sup-

port for designation of a "Welcome Home Vietnam Veterans Day".

S. RES. 452

At the request of Mr. JOHANNIS, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Mississippi (Mr. COCHRAN) 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. 3477

At the request of Ms. CANTWELL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of amendment No. 3477 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 name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor 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. 3506

At the request of Mr. MENENDEZ, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of amendment No. 3506 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3522

At the request of Ms. CANTWELL, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 3522 intended to be 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. CHAMBLISS) 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. DURBIN:

S. 3135. A bill to enhance global healthcare cooperation and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I rise today to introduce the Global Healthcare Cooperation Act of 2010. This legislation takes measured but important steps to enhance global healthcare cooperation and help developing countries address public health challenges. The Global Healthcare Cooperation Act will bolster the ranks of healthcare workers serving in developing countries by enabling American legal permanent residents to assist with overseas public health emergencies, and by responsibly regulating the "brain drain" of skilled healthcare workers from underdeveloped countries

to the U.S. I look forward to working with my colleagues to see these provisions enacted into law.

While many nations are currently experiencing shortages of healthcare personnel, the lack of doctors, nurses and other healthcare workers in the world's poorest nations is an urgent crisis. There are many factors contributing to this crisis, but the massive "brain drain" of trained healthcare workers from the poorest nations to the richest is a central cause. According to the World Health Organization, Africa loses 20,000 health professionals a year as part of this brain drain. In Ethiopia, for example, there are only 1,806 doctors serving a population of 80 million. By comparison, there are 5,074 doctors serving the 600,000 residents of Washington D.C., and 17,507 doctors serving the 5.3 million residents of Cook County in my home state of Illinois. The shortage of healthcare personnel is considered the single biggest obstacle to fighting HIV/AIDS in Africa. Healthcare worker shortages are particularly devastating when nations are confronted with natural disasters and other humanitarian crises, such as the recent Haiti earthquake.

I again saw this problem first hand during a trip to east Africa that I took last month with Senator SHERROD BROWN. In places such as Tanzania and Ethiopia the story was the same—in countries already in desperate need of health workers, many were instead leaving for work in other countries. Many are being recruited to work in the U.S. and in other wealthy nations.

We should do what we can here in the U.S. to make sure these talented health professionals are free to return temporarily to help in countries with urgent health needs without jeopardizing their immigration status. We should also ensure they have met all medical care obligations in their home countries that may have been tied to their health training.

The Global Healthcare Cooperation Act would take two steps to address these challenges. The first part of the bill would allow a healthcare worker who is a legal permanent resident in the U.S. to temporarily provide healthcare services in a country that is underdeveloped or that has suffered a disaster or public health emergency without jeopardizing his or her immigration status in the U.S. Specifically, the bill would allow legal permanent resident healthcare workers to work in qualifying countries for up to 36 months without running afoul of the continuous residency requirement for naturalization. This provision will allow immigrants in our country to lend their skills to overseas disaster relief and public health crises while still pursuing their dream of American citizenship.

The second part of this legislation would require a foreigner who is petitioning to work in the U.S. as a healthcare worker to attest that he or she has satisfied any outstanding obligation to his or her home country

under which the foreigner received money for medical training in return for a commitment to work in that country for a period of years. In exchange for financial support for their education or training, some foreign doctors, nurses, and other healthcare workers have signed voluntary bonds or made promises to their governments to remain in their home countries or to return from their studies abroad and work in the healthcare profession. The bill provides that the petitioner must satisfy any outstanding obligation in order to be eligible for admission into the U.S., though the bill is flexible in allowing the petitioner to reach agreement with the home country in order to satisfy his or her commitment. The legislation provides a waiver in cases of coercion by the home country government or other extraordinary circumstances. The goal of this provision is to ensure that foreign countries do not invest money in healthcare workers who then renege on commitments to work in their country without satisfying their commitment.

The small but important steps contained within the Global Healthcare Cooperation Act will help save lives, and will demonstrate America's leadership in the effort to improve the health of people across the globe. The provisions in this legislation have previously passed the Senate twice, as part of the 2006 immigration reform bill and the 2007 Labor-HHS appropriations bill, but have not yet become law. I urge my colleagues to support the enactment of these important provisions.

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. 3135

*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 "Global Health Care Cooperation Act".

#### SEC. 2. GLOBAL HEALTH CARE COOPERATION.

(a) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

##### "SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

"(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

"(2) to meet the continuous residency requirements under section 316(b).

"(b) DEFINITIONS.—In this section:

"(1) CANDIDATE COUNTRY.—The term 'candidate country' means a country that the Secretary of State determines to be—

"(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

"(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

"(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

"(2) ELIGIBLE ALIEN.—The term 'eligible alien' means an alien who—

"(A) has been lawfully admitted to the United States for permanent residence; and

"(B) is a physician or other healthcare worker.

"(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

"(d) PUBLICATION.—The Secretary of State shall publish—

"(1) not later than 180 days after the date of the enactment of this section, a list of candidate countries;

"(2) an updated version of the list required by paragraph (1) not less often than once each year; and

"(3) an amendment to the list required by paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C)."

(b) RULEMAKING.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENT.—The regulations promulgated pursuant to paragraph (1) shall—

(A) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by subsection (a)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(B) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(C) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 101(a)(13)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding "except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A," at the end.

(2) DOCUMENTARY REQUIREMENTS.—Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by inserting " , including an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate," after "101(a)(27)(A)."

(3) INELIGIBLE ALIENS.—Section 212(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting "other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate," after "Act."

(4) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 317 the following:

"Sec. 317A. Temporary absence of aliens providing health care in developing countries."

#### SEC. 3. ATTESTATION BY HEALTH CARE WORKERS.

(a) ATTESTATION REQUIREMENT.—Section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following:

"(E) HEALTH CARE WORKERS WITH OTHER OBLIGATIONS.—

"(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

"(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in consideration for a commitment to work as a physician or other health care worker in the alien's country of origin or the alien's country of residence.

"(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

"(I) the obligation was incurred by coercion or other improper means;

"(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

"(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(c) APPLICATION.—Not later than the effective date described in subsection (b), the Secretary of Homeland Security shall begin to carry out subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act, as added by subsection (a), including the requirement for the attestation and the granting of a waiver described in clause (iii) of such subparagraph (E), regardless of whether regulations to implement such subparagraph have been promulgated.

## SUBMITTED RESOLUTIONS

SENATE RESOLUTION 457—TO PROVIDE FOR ISSUANCE OF A SUMMONS AND FOR RELATED PROCEDURES CONCERNING THE ARTICLES OF IMPEACHMENT AGAINST G. THOMAS PORTEOUS, JR.

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

## S. RES. 457

*Resolved*, That a summons shall be issued which commands G. Thomas Porteous, Jr. to file with the Secretary of the Senate an answer to the articles of impeachment no later than April 7, 2010, and thereafter to abide by, obey, and perform such orders, directions, and judgments as the Senate shall make in the premises, according to the Constitution and laws of the United States.

SEC. 2. The Sergeant of Arms is authorized to utilize the services of the Deputy Sergeant at Arms or another employee of the Senate in serving the summons.

SEC. 3. The Secretary shall notify the House of Representatives of the filing of the answer and shall provide a copy of the answer to the House.

SEC. 4. The Managers on the part of the House may file with the Secretary of the Senate a replication no later than April 21, 2010.

SEC. 5. The Secretary shall notify counsel for G. Thomas Porteous, Jr. of the filing of a replication, and shall provide counsel with a copy.

SEC. 6. The Secretary shall provide the answer and the replication, if any, to the Presiding Officer of the Senate on the first day the Senate is in session after the Secretary receives them, and the Presiding Officer shall cause the answer and replication, if any, to be printed in the Senate Journal and in the Congressional Record. If a timely answer has not been filed, the Presiding Officer shall cause a plea of not guilty to be entered.

SEC. 7. The articles of impeachment, the answer, and the replication, if any, together with the provisions of the Constitution on impeachment, and the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, shall be printed under the direction of the Secretary as a Senate document.

SEC. 8. The provisions of this resolution shall govern notwithstanding any provisions to the contrary in the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials.

SEC. 9. The Secretary shall notify the House of Representatives of this resolution.

SENATE RESOLUTION 458—TO PROVIDE FOR THE APPOINTMENT OF A COMMITTEE TO RECEIVE AND TO REPORT EVIDENCE WITH RESPECT TO ARTICLES OF IMPEACHMENT AGAINST JUDGE G. THOMAS PORTEOUS, JR.

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

## S. RES. 458

*Resolved*, That pursuant to Rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, the Presiding Officer shall appoint a com-

mittee of twelve senators to perform the duties and to exercise the powers provided for in the rule.

SEC. 2. The majority and minority leader shall each recommend six members, including a chairman and vice chairman, respectively, to the Presiding Officer for appointment to the committee.

SEC. 3. The committee shall be deemed to be a standing committee of the Senate for the purpose of reporting to the Senate resolutions for the criminal or civil enforcement of the committee's subpoenas or orders, and for the purpose of printing reports, hearings, and other documents for submission to the Senate under Rule XI.

SEC. 4. During proceedings conducted under Rule XI the chairman of the committee is authorized to waive the requirement under the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials that questions by a Senator to a witness, a manager, or counsel shall be reduced to writing and put by the Presiding Officer.

SEC. 5. In addition to a certified copy of the transcript of the proceedings and testimony had and given before it, the committee is authorized to report to the Senate a statement of facts that are uncontested and a summary, with appropriate references to the record, of evidence that the parties have introduced on contested issues of fact.

SEC. 6(a). The actual and necessary expenses of the committee, including the employment of staff at an annual rate of pay, and the employment of consultants with prior approval of the Committee on Rules and Administration at a rate not to exceed the maximum daily rate for a standing committee of the Senate, shall be paid from the contingent fund of the Senate from the appropriation account "Miscellaneous Items" upon vouchers approved by the chairman of the committee, except that no voucher shall be required to pay the salary of any employee who is compensated at an annual rate of pay.

(b). In carrying out its powers, duties, and functions under this resolution, the committee is authorized, in its discretion and with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

SEC. 7. The committee appointed pursuant to section one of this resolution shall terminate no later than 60 days after the pronouncement of judgment by the Senate on the articles of impeachment.

SEC. 8. The Secretary shall notify the House of Representatives and counsel for Judge G. Thomas Porteous, Jr. of this resolution.

SENATE RESOLUTION 459—CONGRATULATING KICY RADIO FOR 50 YEARS OF SERVICE TO WESTERN ALASKA AND THE RUSSIAN FAR EAST

Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted the following resolution; which was considered and agreed to:

## S. RES. 459

Whereas KICY Radio is owned and operated by the Arctic Broadcasting Association, a nonprofit affiliate of the Evangelical Covenant Church;

Whereas KICY Radio has been broadcasting since April 17, 1960, on an AM frequency of 850 kilohertz;

Whereas KICY Radio is primarily staffed by volunteers;

Whereas KICY Radio broadcasts from Nome, Alaska to more than 40 Alaska Native villages throughout the Seward Peninsula and Yukon-Kuskokwim Delta;

Whereas KICY Radio serves the Chukotkan, Kamchatkan, and Siberian regions of the Russian Far East for 5 hours each day, 7 days each week, from 11 p.m. to 4 a.m.;

Whereas the signal strength of KICY Radio has expanded from 5,000 watts to 50,000 watts during the past 50 years;

Whereas 1 of the most popular KICY Radio programs over the 50-year history of the station is "Ptarmigan Telegraph," which allows listeners to send in brief messages to be read on the air for friends and relatives; and

Whereas, even today, when much of the region served by KICY Radio is connected by telephone, "Ptarmigan Telegraph" remains a vital means of connecting the people of western Alaska: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates KICY Radio for 50 years of service to western Alaska and the Russian Far East;

(2) recognizes the volunteer staff who have kept KICY Radio on the air for the past 50 years; and

(3) wishes the staff of KICY Radio well with the continued efforts of the staff to serve the people of western Alaska and the Russian Far East with culturally relevant programming.

SENATE RESOLUTION 460—RECOGNIZING THE IMPORTANCE OF THE LONG TRAIL AND THE GREEN MOUNTAIN CLUB ON THE 100TH ANNIVERSARY OF THE LONG TRAIL

Mr. LEAHY (for himself and Mr. SANDERS) submitted the following resolution; which was considered and agreed to:

## S. RES. 460

Whereas the Long Trail is the oldest long-distance hiking trail in the United States;

Whereas the Long Trail stretches over 273 miles, from the Massachusetts to Canadian borders, with approximately 175 miles of side trails and more than 65 shelters;

Whereas the Long Trail has achieved the dream of founder James Taylor of creating "a high highway, a mountain footpath over the skyline of Vermont";

Whereas the Green Mountain Club is the founder, sponsor, defender, and protector of the Long Trail;

Whereas the Green Mountain Club has delivered 100 years of conservation, community education, and outreach on local ecology;

Whereas the Long Trail has protected the habitat of many important species for future generations, including the black bear, the moose, the bobcat, and migratory songbirds;

Whereas the thousands of members and dedicated volunteers of the Green Mountain Club have worked to maintain, manage, and protect the Long Trail for the benefit of the people of the State of Vermont during the last century;

Whereas the Long Trail is a popular tourist destination for people from around the world, including Senators, a Secretary of Agriculture, and even a President;

Whereas the Long Trail allows the people of the State of Vermont and tourists to enjoy the Green Mountain State and all the beauty and history the State has to offer;

Whereas the Green Mountain Club has successfully conserved the entire corridor of the Long Trail, fought efforts to build highways or commercial developments that intersect

with the Long Trail, and helped to maintain pristine Vermont forestland for future generations to enjoy; and

Whereas the Green Mountain Club has recognized members regardless of sex or race since the founding of the club: Now, therefore, be it

*Resolved*, That the Senate recognizes the 100th anniversary of the Long Trail of the State of Vermont, the oldest long-distance hiking trail in the United States, and applauds the Green Mountain Club and the many volunteers of the Green Mountain Club for a century of service and for creating, protecting, and enjoying the Long Trail.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3542. 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.

SA 3543. Mrs. HUTCHISON (for herself, Mr. ROCKEFELLER, and Mr. DORGAN) 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 3544. Mr. INHOFE (for himself, Mr. WYDEN, 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 3545. Mr. RISCH (for himself and Mr. CRAPO) 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 3546. 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 3547. 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 3548. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1586, supra.

SA 3549. Mr. INHOFE (for himself, Mr. SESSIONS, and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 3475 proposed by Mr. MCCAIN (for himself and Mr. BAYH) to the amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3542.** 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. PROJECT COMPLIANCE WITH NATIONAL AVIATION PRIORITIES.

(a) AIRPORT IMPROVEMENT PROGRAM.—The Administrator of the Federal Aviation Administration shall ensure that any amount made available for airport improvement under subchapter 1 of chapter 471 of title 49, United States Code, is for a project that—

(1) has a National Priority Rating of not less than 41; and

(2) is included in the Airports Capital Improvement Plan.

(b) TOWER/TERMINAL AIR TRAFFIC CONTROL FACILITY REPLACEMENT PROGRAM.—The Administrator shall ensure that any amount made available for the replacement of air traffic control facilities under such subchapter is for a project that is on the priority list of the Administration.

(c) INSTRUMENT LANDING SYSTEMS PROGRAM FUNDS.—The Administrator shall ensure that any amount made available for instrument landing systems under such subchapter is for a project that—

(1) has a higher benefit than cost; and

(2) complies with such other requirements of the Administration as the Administrator considers appropriate.

(d) OTHER PROJECTS.—The Administrator shall ensure that any amount made available under such subchapter for a purpose not described in subsection (a), (b), or (c) is for a project that the Administrator considers a national priority.

(e) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than December 31, 2010, and annually thereafter, the Administrator shall submit to Congress a report that lists each project of the Administration that failed to comply with the provisions of this section in the most recent fiscal year ending before the date of such submittal.

(2) CONTENTS.—For each report submitted under paragraph (1), the Administrator shall include, for each project listed in such report, the following:

(A) A description of the project.

(B) A type classification of the project.

(C) The cost of the project.

(D) The impact of the project on the aviation priorities of the United States.

**SA 3543.** Mrs. HUTCHISON (for herself, Mr. ROCKEFELLER, and Mr. DORGAN) 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 in title III, insert the following:

#### SEC. \_\_\_\_ FINANCIAL INCENTIVES FOR NEXTGEN EQUIPAGE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into agreements to fund the costs of equipping aircraft with communications, surveillance, navigation, and other avionics to enable NextGen air traffic control capabilities.

(b) FUNDING INSTRUMENT.—The Administrator may make grants or other instruments authorized under section 106(1)(6) of title 49, United States Code, to carry out subsection (a).

**SA 3544.** Mr. INHOFE (for himself, Mr. WYDEN, 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:

After title VII, insert the following:

#### TITLE VIII—ACCESS TO GENERAL AVIATION AIRPORTS

##### SEC. 801. SHORT TITLE.

This title may be cited as the “Community Airport Access and Protection Act of 2010”.

#### SEC. 802. AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.

(a) IN GENERAL.—Section 47107 of title 49, United States Code, is amended by adding at the end the following:

“(t) AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.—

“(1) IN GENERAL.—Subject to paragraph (2), a sponsor of a general aviation airport shall not be considered to be in violation of this subtitle, or to be in violation of a grant assurance made under this section or under any other provision of law as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor enters into an agreement that grants to a person that owns residential real property adjacent to the airport access to the airfield of the airport for the following:

“(A) Aircraft of the person.

“(B) Aircraft authorized by the person.

“(2) THROUGH THE FENCE AGREEMENTS.—

“(A) IN GENERAL.—An agreement described in paragraph (1) between an airport sponsor and a property owner shall be a written agreement that prescribes the rights, responsibilities, charges, duration, and other terms determined necessary to establish and manage the airport sponsor’s relationship with the property owner.

“(B) TERMS AND CONDITIONS.—An agreement described in paragraph (1) between an airport sponsor and a property owner shall require the property owner, at minimum—

“(i) to pay airport access charges that are not less than those charged to tenants and operators on-airport making similar use of the airport;

“(ii) to bear the cost of building and maintaining the infrastructure necessary to provide aircraft located on the property adjacent to the airport access to the airfield of the airport;

“(iii) to operate and maintain the property, and conduct any construction activities on the property, at no cost to the airport and in a manner that—

“(I) is consistent with subsections (a)(7) and (a)(9);

“(II) does not alter the airport, including the facilities of the airport;

“(III) does not adversely affect the safety, utility, or efficiency of the airport;

“(IV) is compatible with the normal operations of the airport; and

“(V) is consistent with the airport’s role in the National Plan of Integrated Airport Systems;

“(iv) to maintain the property for residential, noncommercial use for the duration of the agreement; and

“(v) to prohibit access to the airport from other properties through the property of the property owner.

“(3) GENERAL AVIATION AIRPORT DEFINED.—In this subsection, the term ‘general aviation airport’ means a public airport that is located in a State and that, as determined by the Secretary of Transportation—

“(A) does not have scheduled service; or

“(B) has scheduled service with less than 2,500 passenger boardings each year.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to an agreement between an airport sponsor and a property owner entered into before, on, or after the date of enactment of this Act.

**SA 3545.** Mr. RISCH (for himself and Mr. CRAPO) 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 61, strike lines 1 through 8 and insert the following:

(c) STUDY BY BOARD.—

(1) IN GENERAL.—The Air Traffic Control Modernization Oversight Board, established by section 106(p) of title 49, United States Code, shall conduct a study of—

(A) the Administrator's recommendations for realignment; and

(B) the opportunities, risks, and benefits of realigning services and facilities of the Administration to reduce capital, operating, maintenance, and administrative costs without adversely affecting safety.

(2) CONSIDERATIONS.—In carrying out the study under paragraph (1), the Board shall consider—

(A) the commercial and noncommercial use of airspace, including Department of Defense operations, Forest Service operations, and the operations of other Government agencies with irregular flight times and patterns; and

(B) the safety of aircraft operations in adverse weather, terrain, and other limiting physical factors relevant to the airspace surrounding airports whose aviation services and facilities have been recommended for realignment by the Administrator.

**SA 3546.** 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) PASSENGER ENPLANEMENT REPORT.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall prepare a report on 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) REPORT OBJECTIVES.—In carrying out the report under paragraph (1), the Administrator shall document the methods used by each subject airport to reach the 10,000 passenger enplanement threshold, including whether airports subsidize commercial flights to reach such threshold.

(3) REVIEW.—The Inspector General of the Department of Transportation shall review the process of the Administrator in developing the report under paragraph (1).

(4) REPORT.—The Administrator shall submit the report prepared under paragraph (1) to Congress and the Secretary of Transportation.

(5) RULEMAKING.—After reviewing the report prepared 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 3547.** 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 44, after line 25, add the following:

**SEC. 219. STUDY ON APPORTIONING AMOUNTS FOR AIRPORT IMPROVEMENT IN PROPORTION TO AMOUNTS OF AIR TRAFFIC.**

(a) STUDY AND REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) complete a study on the feasibility and advisability of apportioning amounts under section 47114(c)(1) of title 49, United States Code, to the sponsor of each primary airport for each fiscal year an amount that bears the same ratio to the amount subject to the 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; and

(2) submit to Congress a report on the study completed under paragraph (1).

(b) REPORT CONTENTS.—The report required by subsection (a)(2) shall include the following:

(1) A description of the study carried out under subsection (a)(1).

(2) The findings of the Administrator with respect to such study.

(3) A list of each sponsor of a primary airport that received an amount under section 47114(c)(1) of title 49, United States Code, in 2009.

(4) For each sponsor listed in accordance with paragraph (3), the following:

(A) The amount such sponsor received, if any, in 2005, 2006, 2007, 2008, and 2009 under such section 47114(c)(1).

(B) An explanation of how the amount awarded to such sponsor was determined.

(C) The average number of air passenger flights serviced each month at the airport of such sponsor in 2009.

(D) The number of enplanements for air passenger transportation at such airport in 2005, 2006, 2007, 2008, and 2009.

**SA 3548.** Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; as follows:

At the end, insert the following:

**SEC. 316. DISCRETIONARY SPENDING LIMITS AND OTHER DEFICIT REDUCTION MEASURES.**

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

**“DISCRETIONARY SPENDING LIMITS**

**“SEC. 316. (a) DISCRETIONARY SPENDING LIMITS.—**It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the discretionary spending limits as set forth in this section to be exceeded.

**“(b) LIMITS.—**In this section, the term ‘discretionary spending limits’ has the following meaning subject to adjustments in subsection (c):

**“(1) For fiscal year 2011—**

**“(A) for the defense category (budget function 050), \$573,793,000,000 in budget authority; and**

**“(B) for the nondefense category, \$333,159,000,000 in budget authority.**

**“(2) For fiscal year 2012—**

**“(A) for the defense category (budget function 050), \$580,811,000,000 in budget authority; and**

**“(B) for the nondefense category, \$359,621,000,000 in budget authority.**

**“(3) For fiscal year 2013—**

**“(A) for the defense category (budget function 050), \$593,516,000,000 in budget authority; and**

**“(B) for the nondefense category, \$549,562,000,000 in budget authority.**

**“(4) With respect to fiscal years following 2013, the President shall recommend and the Congress shall consider legislation setting limits for those fiscal years.**

**“(c) ADJUSTMENTS.—**

**“(1) IN GENERAL.—**After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

**“(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, the budgetary aggregates in the concurrent resolution on the budget most recently adopted by the Senate and the House of Representatives, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing there from; and**

**“(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.**

**“(2) MATTERS DESCRIBED.—**Matters referred to in paragraph (1) are as follows:

**“(A) OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—**If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that provides funding for overseas deployments and other activities, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that purpose but not to exceed—

**“(i) with respect to fiscal year 2011, \$50,000,000,000 in new budget authority;**

**“(ii) with respect to fiscal year 2012, \$50,000,000,000 in new budget authority; and**

**“(iii) with respect to fiscal year 2013, \$50,000,000,000 in new budget authority.**

**“(B) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—**

**“(i) IN GENERAL.—**If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that includes the amount described in clause (ii)(I), plus an additional amount for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

**“(ii) AMOUNTS.—**The amounts referred to in clause (i) are as follows:

**“(I) For fiscal year 2011, \$7,171,000,000, for fiscal year 2012, \$7,243,000,000, and for fiscal year 2013, \$7,315,000,000.**

**“(II) For fiscal year 2011, \$899,000,000, for fiscal year 2012, and \$908,000,000, for fiscal year 2013, \$917,000,000.**

**“(C) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—**

**“(i) IN GENERAL.—**If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii)(I), plus an additional amount for Continuing Disability Reviews and Supplemental Security Income Redeterminations for the Social Security Administration described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

“(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

“(I) For fiscal year 2011, \$276,000,000, for fiscal year 2012, \$278,000,000, and for fiscal year 2013, \$281,000,000.

“(II) For fiscal year 2011, \$490,000,000; for fiscal year 2012, and \$495,000,000; for fiscal year 2013, \$500,000,000.

“(iii) ASSET VERIFICATION.—

“(I) IN GENERAL.—The additional appropriation permitted under clause (ii)(II) may also provide that a portion of that amount, not to exceed the amount specified in subclause (II) for that fiscal year instead may be used for asset verification for Supplemental Security Income recipients, but only if, and to the extent that the Office of the Chief Actuary estimates that the initiative would be at least as cost effective as the redeterminations of eligibility described in this subparagraph.

“(II) AMOUNTS.—For fiscal year 2011, \$34,340,000, for fiscal year 2012, \$34,683,000, and for fiscal year 2013, \$35,030,000.

“(D) HEALTH CARE FRAUD AND ABUSE.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii) for the Health Care Fraud and Abuse Control program at the Department of Health & Human Services for that fiscal year, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed the amount described in clause (ii).

“(ii) AMOUNT.—The amount referred to in clause (i) is for fiscal year 2011, \$314,000,000, for fiscal year 2012, \$317,000,000, and for fiscal year 2013, \$320,000,000.

“(E) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes \$10,000,000, plus an additional amount for in-person reemployment and eligibility assessments and unemployment improper payment reviews for the Department of Labor, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed—

“(i) with respect to fiscal year 2011, \$51,000,000 in new budget authority;

“(ii) with respect to fiscal year 2012, \$51,000,000 in new budget authority; and

“(iii) with respect to fiscal year 2013, \$52,000,000 in new budget authority.

“(F) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes \$3,200,000,000 in funding for the Low-Income Home Energy Assistance Program and provides an additional amount up to \$1,900,000,000 for that program, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed \$1,900,000,000.

“(d) EMERGENCY SPENDING.—

“(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

“(2) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of this section,

and sections 302 and 311 of the Congressional Budget Act of 1974, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), and section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits).

“(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

“(4) DEFINITIONS.—In this subsection, the terms ‘direct spending’, ‘receipts’, and ‘appropriations for discretionary accounts’ mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(5) POINT OF ORDER.—

“(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

“(B) SUPERMAJORITY WAIVER AND APPEALS.—

“(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

“(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph 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 paragraph.

“(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this paragraph.

“(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

“(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this paragraph, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

“(6) CRITERIA.—

“(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

“(i) necessary, essential, or vital (not merely useful or beneficial);

“(ii) sudden, quickly coming into being, and not building up over time;

“(iii) an urgent, pressing, and compelling need requiring immediate action;

“(iv) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

“(v) not permanent, temporary in nature.

“(7) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

“(e) LIMITATIONS ON CHANGES TO EXEMPTIONS.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

#### “NATIONAL COMMISSION ON FISCAL RESPONSIBILITY AND REFORM

“SEC. 317. (a) IN GENERAL.—The National Commission on Fiscal Responsibility and Reform (referred to in this section as the ‘Commission’) established by Executive Order 13531 shall not later than December 1, 2010, include in the report of the Commission recommendations to improve the fiscal sustainability of the Federal Government and close the gap between the projected revenues and entitlement spending sufficient to reduce the deficit by not less than \$77,000,000,000 for the period of fiscal years 2011 through 2013.

“(b) ENACTMENT BY CONGRESS OF THE COMMISSION RECOMMENDATIONS.—If the Commission fails to submit a final report by December 1, 2010, and if Congress does not enact the Commission recommendations in subsection (a) by January 2, 2011, then the discretionary spending limits in section 316(b) for fiscal years 2012 and 2013 shall not apply.

“(c) SENSE OF CONGRESS.—It is the sense of Congress that the total amount of deficit reduction recommended by the Commission for fiscal years 2011 through 2013 shall at least be equal to the reductions in discretionary spending achieved in section 316 for fiscal years 2011 through 2013, and used solely for deficit reduction.”

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 315 the following new item:

“Sec. 316. Discretionary spending limits.  
“Sec. 317. National Commission on Fiscal Responsibility and Reform.”

**SA 3549.** Mr. INHOFE (for himself, Mr. SESSIONS, and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 3475 proposed by Mr. MCCAIN (for himself and Mr. BAYH) 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:

#### TITLE \_\_\_\_\_—HELP ACT

##### SEC. 01. HELP ACT.

(a) SHORT TITLE.—This title may be cited as the “Honest Expenditure Limitation Program Act of 2010” or the “HELP Act”.

(b) EXPIRATION.—This title shall expire at the end of fiscal year 2020.

#### Subtitle A—Congressional Non-Security Discretionary Spending Limits

##### SEC. 101. NON-SECURITY DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

“NON-SECURITY DISCRETIONARY SPENDING LIMITS

“SEC. 316. (a) NON-SECURITY DISCRETIONARY SPENDING LIMITS.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amend-

ment, or conference report that includes any provision that would cause the non-security discretionary spending limits as set forth in subsection (b) to be exceeded.

“(b) LIMITS.—The non-security discretionary spending limits are as follows:

“(1) For fiscal years 2011 through 2015, the spending level for such spending in fiscal year 2010 reduced each year thereafter on a pro rata basis so that the level for fiscal year 2015 does not exceed the level for fiscal year 2008.

“(2) For fiscal years 2016 through 2020, the spending level for fiscal year 2015.

“(c) NON-SECURITY SPENDING.—In this section, the term ‘non-security discretionary spending’ means discretionary spending other than spending for the Department of Defense, homeland security activities, intelligence related activities within the Department of State, the Department of Veterans Affairs, and national security related activities in the Department of Energy.

“(d) LIMITATIONS ON CHANGES TO THIS SECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would—

“(1) repeal or otherwise change this section; or

“(2) exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

“(e) POINT OF ORDER IN THE SENATE.—

“(1) WAIVER.—The provisions of this section shall be waived or suspended in the Senate only—

“(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

“(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

“(2) APPEAL.—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 measure. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.”.

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 315 the following new item:

“Sec. 316. Non-security discretionary spending limits.”.

Subtitle B—Statutory Non-Security Discretionary Spending Limits PART I—DEFINITIONS, ADMINISTRATION, AND SEQUESTRATION

SEC. 211. DEFINITIONS.

In this subtitle:

(1) ACCOUNT.—The term “account” means—

(A) for discretionary budget authority, an item for which appropriations are made in any appropriation Act; and

(B) for items not provided for in appropriation Acts, direct spending and outlays therefrom identified in the program and finance schedules contained in the appendix to the Budget of the United States for the current year.

(2) BREACH.—The term “breach” means, for any fiscal year, the amount by which discretionary budget authority enacted for that year exceeds the spending limit for budget authority for that year.

(3) BUDGET AUTHORITY; NEW BUDGET AUTHORITY; AND OUTLAYS.—The terms “budget authority”, “new budget authority”, and “outlays” have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622).

(4) BUDGET YEAR.—The term “budget year” means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

(5) CBO.—The term “CBO” means the Director of the Congressional Budget Office.

(6) CURRENT.—The term “current” means—

(A) with respect to the Office of Management and Budget estimates included with a budget submission under section 1105(a) of title 31, United States Code, the estimates consistent with the economic and technical assumptions underlying that budget;

(B) with respect to estimates made after that budget submission that are not included with it, the estimates consistent with the economic and technical assumptions underlying the most recently submitted President’s budget; and

(C) with respect to the Congressional Budget Office, estimates consistent with the economic and technical assumptions as required by section 202(e)(1) of the Congressional Budget Act of 1974.

(7) CURRENT YEAR.—The term “current year” means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(8) DISCRETIONARY APPROPRIATIONS AND DISCRETIONARY BUDGET AUTHORITY.—The terms “discretionary appropriations” and “discretionary budget authority” shall have the meaning given such terms in section 3(4) of the Congressional Budget Act of 1974.

(9) NON-SECURITY DISCRETIONARY SPENDING LIMIT.—The term “non-security discretionary spending limit” shall mean the amounts specified in section 222.

(10) OMB.—The term “OMB” means the Director of the Office of Management and Budget.

(11) SEQUESTRATION.—The term “sequestration” means the cancellation or reduction of budget authority (except budget authority to fund mandatory programs) provided in appropriation Acts.

SEC. 212. ADMINISTRATION AND EFFECT OF SEQUESTRATION.

(a) TIMETABLE.—The timetable with respect to this subtitle is as follows:

Table with 2 columns: Action to be completed; Date. Rows include: CBO Discretionary Sequestration Preview Report, OMB Discretionary Sequestration Preview Report, OMB Final Discretionary Sequestration Report, OMB Final Discretionary Sequestration/Presidential Sequestration Order.

PART II—NON-SECURITY DISCRETIONARY SPENDING LIMITS

SEC. 221. DISCRETIONARY SEQUESTRATION REPORTS.

(a) DISCRETIONARY SEQUESTRATION PREVIEW REPORTS.—

(1) REPORTING REQUIREMENT.—On the dates specified in section 212(a), OMB shall report to the President and Congress and CBO shall report to Congress a Discretionary Sequestration Preview Report regarding discretionary sequestration based on laws enacted through those dates.

(2) DISCRETIONARY.—The Discretionary Sequestration Preview Report shall set forth estimates for the current year and each subsequent year through 2014 of the applicable discretionary spending limits and a projection of budget authority exceeding discretionary limits subject to sequester.

(3) EXPLANATION OF DIFFERENCES.—The OMB reports shall explain the differences between OMB and CBO estimates for each item set forth in this subsection.

(b) DISCRETIONARY SEQUESTRATION REPORTS.—On the dates specified in section 212(a), OMB and CBO shall issue Discretionary Sequestration Reports, reflecting laws enacted through those dates, containing

sources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

(4) Except as otherwise provided in this part, obligations or budgetary resources in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

(5) Budgetary resources sequestered in special fund accounts and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.

(d) SUBMISSION AND AVAILABILITY OF REPORTS.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate, and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

(b) PRESIDENTIAL ORDER.—

(1) IN GENERAL.—On the date specified in subsection (a), if in its Final Sequestration Report, OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(2) SPECIAL RULE.—If the date specified for the submission of a Presidential order under subsection (a) falls on a Sunday or legal holiday, such order shall be issued on the following day.

(c) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account shall be permanently cancelled, except as provided in paragraph (5).

(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account).

(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary re-

all of the information required in the Discretionary Sequestration Preview Reports.

(C) FINAL DISCRETIONARY SEQUESTRATION REPORTS.—

(1) REPORTING REQUIREMENTS.—On the dates specified in section 212(a), OMB and CBO shall each issue a Final Discretionary Sequestration Report, updated to reflect laws enacted through those dates.

(2) DISCRETIONARY SPENDING.—The Final Discretionary Sequestration Reports shall set forth estimates for each of the following:

(A) For the current year and each subsequent year through 2014; the applicable discretionary spending limits.

(B) For the current year, if applicable, and the budget year; the new budget authority and the breach, if any.

(C) The sequestration percentages necessary to eliminate the breach.

(D) For the budget year, for each account to be sequestered, the level of enacted, sequesterable budget authority and resulting estimated outlays flowing therefrom.

(3) EXPLANATION OF DIFFERENCES.—The OMB report shall explain—

(A) any differences between OMB and CBO estimates for the amount of any breach and for any required discretionary sequestration percentages; and

(B) differences in the amount of sequesterable resources for any budget account to be reduced if such difference is greater than \$5,000,000.

(d) ECONOMIC AND TECHNICAL ASSUMPTIONS.—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

**SEC. 222. LIMITS.**

(a) DISCRETIONARY SPENDING LIMITS.—As used in this subtitle, the term “non-security discretionary spending limit” shall have the same meaning as in section 316 of the Congressional Budget Act of 1974.

(b) ENFORCEMENT.—

(1) SEQUESTRATION.—On the date specified in section 212(a), there shall be a sequestration to eliminate a budget-year breach.

(2) ELIMINATING A BREACH.—Each non-security discretionary account shall be reduced by a dollar amount calculated by multiplying the enacted level of budget authority for that year in that account at that time by the uniform percentage necessary to eliminate a breach of the discretionary spending limit.

(3) PART-YEAR APPROPRIATIONS.—If, on the date the report is issued under paragraph (1), there is in effect an Act making continuing appropriations for part of a fiscal year for any budget account, then the dollar sequestration calculated for that account under paragraph (2) shall be subtracted from—

(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation.

(4) LOOK-BACK.—If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a breach for that year (after taking into account any previous sequestration), the discretionary spending limit for the next fiscal year shall be reduced by the amount of that breach.

(5) WITHIN-SESSION SEQUESTRATION REPORTS AND ORDER.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach, 10 days later CBO shall issue a report containing the information required in section 221(c). Fifteen days after

enactment, OMB shall issue a report containing the information required in section 221(c). On the same day as the OMB report, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(c) ESTIMATES.—

(1) CBO ESTIMATES.—As soon as practicable after Congress completes action on any legislation providing discretionary appropriations, CBO shall provide an estimate to OMB of that legislation.

(2) OMB ESTIMATES.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any discretionary appropriations, OMB shall transmit a report to the Senate and to the House of Representatives containing—

(A) the CBO estimate of that legislation;

(B) an OMB estimate of that legislation using current economic and technical assumptions; and

(C) an explanation of any difference between the 2 estimates.

(3) DIFFERENCES.—If during the preparation of the report under paragraph (2), OMB determines that there is a difference between the OMB and CBO estimates, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation, to the extent practicable, shall include written communication to such committees that affords such committees the opportunity to comment before the issuance of that report.

(4) ASSUMPTIONS AND GUIDELINES.—OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

**NOTICE OF HEARING**

**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs has scheduled a hearing entitled, “Wall Street and the Financial Crisis: The Role of High Risk Home Loans” This hearing will be the first in a series of Subcommittee hearings examining some of the causes and consequences of the recent financial crisis. This first hearing will focus on the role of high risk home loans in the financial crisis, using as a case history high risk home loans originated, sold, and securitized by Washington Mutual Bank. A witness list will be available Monday, March 22, 2010.

The Subcommittee hearing has been scheduled for Thursday, March 25, 2010, at 9:30 a.m., in Room 216 of the Hart Senate Office Building. For further information, please contact Elise Bean of the Permanent Subcommittee on Investigations at 224-9505.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Com-

mittee on Energy and Natural Resources be authorized to meet during the session of the Senate on March 17, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

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

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on March 17, 2010, at 10:30 a.m., in room 406 of the Dirksen Senate Office Building.

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

**COMMITTEE ON FOREIGN RELATIONS**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 17, 2010, at 10 a.m.

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

**COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “Reauthorization: The Obama Administration’s ESEA Reauthorization Priorities” on March 17, 2010. The hearing will commence at 10 a.m. in room 216 of the Hart Senate Office Building.

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

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on March 17, 2010, at 10 a.m. to conduct a hearing entitled “The Lessons and Implications of the Christmas Day Attack: Intelligence Reform and Inter-agency Integration.”

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

**SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, be authorized to meet during the session of the Senate, on March 17, 2010, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Could Bankruptcy Reform Help Preserve Small Business Jobs?”

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

**SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to hold a

meeting during the session of the Senate on March 17, 2010, at 3 p.m., in room 253 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate on March 17, 2010 at 3:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on March 17, 2010, at 2:30 p.m.

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

SPECIAL COMMITTEE ON AGING

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on March 17, 2010, at 2:30-5 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

CONGRATULATING KICY RADIO

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 459, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 459) congratulating KICY Radio for 50 years of service to western Alaska and the Russian Far East.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 459) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 459

Whereas KICY Radio is owned and operated by the Arctic Broadcasting Association, a nonprofit affiliate of the Evangelical Covenant Church;

Whereas KICY Radio has been broadcasting since April 17, 1960, on an AM frequency of 850 kilohertz;

Whereas KICY Radio is primarily staffed by volunteers;

Whereas KICY Radio broadcasts from Nome, Alaska to more than 40 Alaska Native villages throughout the Seward Peninsula and Yukon-Kuskokwim Delta;

Whereas KICY Radio serves the Chukotkan, Kamchatkan, and Siberian regions of the Russian Far East for 5 hours each day, 7 days each week, from 11 p.m. to 4 a.m.;

Whereas the signal strength of KICY Radio has expanded from 5,000 watts to 50,000 watts during the past 50 years;

Whereas 1 of the most popular KICY Radio programs over the 50-year history of the station is "Ptarmigan Telegraph," which allows listeners to send in brief messages to be read on the air for friends and relatives; and

Whereas, even today, when much of the region served by KICY Radio is connected by telephone, "Ptarmigan Telegraph" remains a vital means of connecting the people of western Alaska: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates KICY Radio for 50 years of service to western Alaska and the Russian Far East;

(2) recognizes the volunteer staff who have kept KICY Radio on the air for the past 50 years; and

(3) wishes the staff of KICY Radio well with the continued efforts of the staff to serve the people of western Alaska and the Russian Far East with culturally relevant programming.

RECOGNIZING THE 100TH ANNIVERSARY OF THE LONG TRAIL

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 460, submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 460) recognizing the importance of the Long Trail and the Green Mountain Club on the 100th anniversary of the Long Trail.

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

Mr. LEAHY. Mr. President, I am pleased that the Senate will agree to this resolution commemorating the 100th anniversary of the Long Trail and the Green Mountain Club. In March 1910, James P. Taylor, a teacher from Vermont, fulfilled a dream held by many when he founded the Green Mountain Club, and created a long-distance trail to extend from Massachusetts to Canada.

Spanning over 273 miles, the Long Trail is the oldest long-distance hiking trail in the United States, and has survived many floods, hurricanes, and harsh Vermont winters. The Long Trail's scenic and varied landscapes, from the alpine peaks of Camel's Hump and Mount Mansfield, to quiet woodland trails and mountain streams, have delighted countless tourists who have visited the Green Mountain state. Several Senators, a Secretary of Agriculture, and even a President have all enjoyed the trail.

It is only through the hard work of the thousands of Green Mountain Club volunteers that the Long Trail has flourished and grown during the last century. The Green Mountain Club has resisted efforts to build highways or commercial developments that inter-

sect with the Long Trail, and helped to maintain pristine Vermont forestland that we all love for future generations to enjoy. They have protected the habitat of many important woodland species, including the black bear, the moose, the bobcat, and migratory songbirds.

I was pleased to secure funding to help the Green Mountain Club renovate their headquarters and visitors center in 2008 in anticipation of the centennial, so that Vermonters and tourists alike can enjoy Vermont's natural beauty for another 100 years. I join with all Vermonters, and the thousands of people from across the United States and around the world who have enjoyed the beauty of the Long Trail, in celebrating this centennial celebration.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 460) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 460

Whereas the Long Trail is the oldest long-distance hiking trail in the United States;

Whereas the Long Trail stretches over 273 miles, from the Massachusetts to Canadian borders, with approximately 175 miles of side trails and more than 65 shelters;

Whereas the Long Trail has achieved the dream of founder James Taylor of creating "a high highway, a mountain footpath over the skyline of Vermont";

Whereas the Green Mountain Club is the founder, sponsor, defender, and protector of the Long Trail;

Whereas the Green Mountain Club has delivered 100 years of conservation, community education, and outreach on local ecology;

Whereas the Long Trail has protected the habitat of many important species for future generations, including the black bear, the moose, the bobcat, and migratory songbirds;

Whereas the thousands of members and dedicated volunteers of the Green Mountain Club have worked to maintain, manage, and protect the Long Trail for the benefit of the people of the State of Vermont during the last century;

Whereas the Long Trail is a popular tourist destination for people from around the world, including Senators, a Secretary of Agriculture, and even a President;

Whereas the Long Trail allows the people of the State of Vermont and tourists to enjoy the Green Mountain State and all the beauty and history the State has to offer;

Whereas the Green Mountain Club has successfully conserved the entire corridor of the Long Trail, fought efforts to build highways or commercial developments that intersect with the Long Trail, and helped to maintain pristine Vermont forestland for future generations to enjoy; and

Whereas the Green Mountain Club has recognized members regardless of sex or race since the founding of the club: Now, therefore, be it

*Resolved*, That the Senate recognizes the 100th anniversary of the Long Trail of the

State of Vermont, the oldest long-distance hiking trail in the United States, and applauds the Green Mountain Club and the many volunteers of the Green Mountain Club for a century of service and for creating, protecting, and enjoying the Long Trail.

#### CONGRESSIONAL AWARD PROGRAM REAUTHORIZATION ACT OF 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 317, S. 2865.

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

The legislative clerk read as follows:

A bill (S. 2865) to reauthorize the Congressional Award Act (2 U.S.C. 801 et seq.), and for other purposes.

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

Mr. DURBIN. Mr. President, I further ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to this measure be printed in the RECORD.

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

The bill (S. 2865) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:  
S. 2865

*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 “Congressional Award Program Reauthorization Act of 2009”.

#### SEC. 2. CONGRESSIONAL AWARD PROGRAM.

(a) IMPLEMENTATION AND PRESENTATION.—Section 102 of the Congressional Award Act (2 U.S.C. 802) is amended—

(1) in the matter following subsection (b)(5), by striking “under paragraph (3)”;

(2) in subsection (c), in the second sentence, by striking “during” and inserting “in connection with”.

(b) TERMS OF APPOINTMENT AND REAPPOINTMENTS.—Section 103 of the Congressional Award Act (2 U.S.C. 803) is amended by striking subsection (b) and inserting the following:

“(b) TERMS OF APPOINTED MEMBERS; REAPPOINTMENT.—

“(1) Appointed members of the Board shall continue to serve at the pleasure of the officer by whom they are appointed, and (unless reappointed under paragraph (2)) shall serve for a term of 4 years.

“(2)(A) Subject to the limitations in subparagraph (B), members of the Board may be reappointed, except that no member may serve more than 2 full consecutive terms. Members may be reappointed to 2 full consecutive terms after being appointed to fill a vacancy on the Board.

“(B) Members of the Board shall not be subject to the limitation on reappointment in subparagraph (A) during their period of service as Chairman of the Board and may be reappointed to an additional full term after termination of such Chairmanship.

“(3)(A) Notwithstanding paragraph (1) or (2), the term of each member of the Board shall begin on October 1 of the even numbered year which would otherwise apply with one-half of the Board positions having terms which begin in each even numbered year.

“(B) Subparagraph (A) shall apply to appointments made to the Board on or after the date of enactment of the Congressional Award Program Reauthorization Act of 2009.”.

(c) REQUIREMENTS REGARDING FINANCIAL OPERATIONS.—Section 104(c) of the Congressional Award Act (2 U.S.C. 804(c)) is amended—

(1) in paragraph (1), in the third sentence, by striking “, in any calendar year,” and inserting “in any fiscal year”;

(2) by striking paragraph (2) and inserting the following

“(2)(A) The Comptroller General of the United States shall determine for each fiscal year whether the Director has substantially complied with paragraph (1). The findings made by the Comptroller General under the preceding sentence shall be included in the reports submitted under section 107(b).

“(B) If the Director fails to substantially comply with paragraph (1), the Board shall instruct the Director to take such actions as may be necessary to correct such deficiencies, and shall remove and replace the Director if such deficiencies are not promptly corrected.”.

(d) FUNDING AND EXPENDITURES.—Section 106(a) of the Congressional Award Act (2 U.S.C. 806(a)) is amended by striking paragraph (1) and inserting the following:

“(1) the Board shall carry out its functions and make expenditures with—

“(A) such resources as are available to the Board from sources other than the Federal Government; and

“(B) funds awarded in any grant program administered by a Federal agency in accordance with the law establishing that grant program.”.

(e) STATEWIDE CONGRESSIONAL AWARD COUNCILS.—Section 106(c) of the Congressional Award Act (2 U.S.C. 806(c)) is amended by striking paragraph (4) and inserting the following:

“(4) Each Statewide Council established under this section may receive contributions, and use such contributions for the purposes of the Program. The Board shall adopt appropriate financial management methods in order to ensure the proper accounting of these funds. Each Statewide Council shall comply with subsections (a), (d), (e), and (h) governing the Board.”.

(f) CONTRACTING AND USE OF FUNDS FOR SCHOLARSHIPS.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended—

(1) in subsection (d), by inserting “to be” after “expenditure is”; and

(2) in subsection (e)(1)(A), by inserting “or for scholarships” after “local program”.

(g) NONPROFIT CORPORATION.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended by striking subsection (i) and inserting the following:

“(i)(1) The Board shall provide for the incorporation of a nonprofit corporation to be known as the Congressional Award Foundation (together with any subsidiary nonprofit corporations determined desirable by the Board, collectively referred to in this title as the ‘Corporation’) for the sole purpose of assisting the Board to carry out the Congressional Award Program, and shall delegate to the Corporation such duties as it considers appropriate, including the employment of personnel, expenditure of funds, and the incurrence of financial or other contractual obligations.

“(2) The articles of incorporation of the Congressional Award Foundation shall provide that—

“(A) the members of the Board of Directors of the Foundation shall be the members of the Board, with up to 24 additional voting members appointed by the Board, and the Director who shall serve as a nonvoting member; and

“(B) the extent of the authority of the Foundation shall be the same as that of the Board.

“(3) No director, officer, or employee of any corporation established under this subsection may receive compensation, travel expenses, or benefits from both the Corporation and the Board.”.

(h) TERMINATION.—

(1) IN GENERAL.—Section 108 of the Congressional Award Act (2 U.S.C. 808) is amended by striking “October 1, 2009” and inserting “October 1, 2013”.

(2) EFFECTIVE DATE.—This subsection shall take effect as of October 1, 2009.

#### FAIR SENTENCING ACT OF 2009

Mr. DURBIN. Mr. President, prior to making the next unanimous consent request, I wish to make a statement on the RECORD relative to the bill that I will be asking for unanimous consent on. It is S. 1789.

This bill is known as the Fair Sentencing Act. It is bipartisan legislation which has cleared both sides. At the conclusion of my remarks, I will, of course, ask for unanimous consent, but will ask permission, if possible, that the statement of Senator SESSIONS be printed in the RECORD. I don’t know if he will be able to make it this evening, but if not, we will do our best to accommodate him.

The Fair Sentencing Act would reduce the sentencing disparity between crack and powder cocaine and increase penalties for serious drug offenders. Crack and powder cocaine have a devastating effect on families in America, and tough anti-cocaine legislation is definitely needed, but the law must also be fair. Current law is based on an unjustified distinction between crack and powder cocaine. Simply possessing five grams of crack—the equivalent of five tiny packets of sugar that you find in restaurants—carries the same sentence as selling 500 grams of powder cocaine. That is 500 packets of sugar. Five packets for crack; 500 packets for powder, the same sentence. This is known as the 100-to-1 disparity.

I can remember as a Member of the House of Representatives when we enacted this legislation. Crack cocaine had just appeared on the scene and it scared us, because it was cheap and it was addictive. We thought it was more dangerous than many narcotics and left the legacy of crack babies and broken lives. In our response to this terrible new narcotic at the time, we enacted this sentencing disparity, saying that 5 five grams of crack cocaine would lead to the same sentence as 500 grams of powder cocaine. What it has meant is that, unfortunately, in the years that followed, we have seen people sent to prison for extended periods of time for possessing—merely possessing—the smallest amount of crack.

Disproportionately, African Americans who are addicted use crack cocaine. The use of powder cocaine is spread across the population among Whites, Hispanics, and others. So the net result of this was that the heavy

sentencing we enacted years ago took its toll primarily in the African-American community. It resulted in the incarceration of thousands of people because of this heavy sentencing disparity and a belief in the African-American community that it was fundamentally unfair. It was the same cocaine, though in a different form, and they were being singled out for much more severe and heavy sentences. This debate went on and on and on. African Americans make up about 30 percent of crack users in America, but they make up more than 80 percent of those who have been convicted of Federal crack offenses.

Law enforcement experts say that the crack-powder disparity undermines trust in the criminal justice system, especially in the African-American community. In a hearing I held last year, Asa Hutchinson, a former Member of Congress who was also head of the Drug Enforcement Administration during the Bush administration, testified and he said:

Under the current disparity, the credibility of our entire drug enforcement system is weakened.

The bipartisan U.S. Sentencing Commission and the Judicial Conference of the United States support reducing this disparity. According to the Sentencing Commission, this:

would better reduce the gap in sentencing between blacks and whites than any other single policy change, and it would dramatically improve the fairness of the Federal sentencing system.

That comes from the Sentencing Commission.

The Fair Sentencing Act, which I will call up for unanimous consent momentarily, would reduce the current 100-to-1 disparity to basically 18 to 1. The Fair Sentencing Act would also eliminate the 5-year mandatory minimum sentence for simple possession of crack cocaine.

Incidentally, this is the only mandatory minimum for simple possession of a drug by a first-time offender. For this one form of narcotics, persons who were found in simple possession of crack cocaine literally faced years in prison for that possession without any evidence that they were selling it or involved in any other way.

There is a bipartisan consensus that current cocaine sentencing laws are unjust. Now Democrats and Republicans have come together to address the issue in a bipartisan way. Last week, the Senate Judiciary Committee reported the Fair Sentencing Act by a unanimous 19-to-0 vote. The bill is cosponsored by 16 of the 19 members of the Senate Judiciary Committee. This is the first time the Senate Judiciary Committee has ever reported a bill to reduce the crack-powder disparity, and if this bill is enacted into law, it will be the first time since 1970—40 years ago—that Congress has repealed a mandatory minimum sentence.

Here is what Attorney General Eric Holder said last week in response:

The bill voted unanimously out of the Senate Judiciary Committee today makes progress toward achieving a more just sentencing policy while maintaining the necessary law enforcement tools to appropriately punish violent and dangerous drug traffickers. I look forward to the Senate and the House approving this legislation quickly so that it can be signed into law.

The Fair Sentencing Act is supported by law enforcement groups, including the National District Attorneys Association, representing 40,000 State and local prosecutors; the National Association of Police Organizations, representing 240,000 law enforcement officers; and the International Union of Police Associations, representing more than 100,000 law enforcement officials.

I wish to thank my colleagues on the Senate Judiciary Committee for supporting the Fair Sentencing Act. I especially wish to thank the following Members who have done an extraordinary job over the last year during which we have worked to reach this bipartisan agreement. First, the chairman of the Senate Judiciary Committee PAT LEAHY. He is a great leader and a patient man. This bill has been sitting on a calendar for weeks and he keeps coming to me and saying: DURBIN, when are we going to have this ready?

I said: Mr. Chairman, we are working on it.

He had the patience of Job.

I especially wish to thank my friend from Alabama, the Judiciary Committee ranking member, JEFF SESSIONS. If asked if there are two politicians on the floor of the Senate who are dramatically different, you couldn't find two any more different than DICK DURBIN and JEFF SESSIONS. We seldom agree on things, but we came together on this, and we made mutual concessions to come up with a good bipartisan bill. JEFF, I think, went the extra mile to find some agreement here. He held to his principles, but we worked it out.

In the process of reaching that agreement, I wish to also thank some Republican Members who were invaluable. LINDSEY GRAHAM was one of the first to come up to me and say, I want to work with you on this. There has to be a way we can work this out to the satisfaction of law enforcement and to reach the standards of justice. I thank Senator LINDSEY GRAHAM, the Republican from South Carolina, for all the work he put into it.

TOM COBURN of Oklahoma is another Senator I disagree with so many times politically. He went the extra mile on this. I know it meant a lot to him and he was very helpful.

Finally, ORRIN HATCH from Utah. Senator HATCH from the beginning said, Don't quit, stick with it, we can reach an agreement. He was an inspiration to us as we brought this to a conclusion.

We have talked about the need to address the crack-powder disparity for too long. Every day that passes without taking action to solve this problem

is another day that people are being sentenced under a law that virtually everyone agrees is unjust. I wish this bill went further. My initial bill established a 1-to-1 ratio, but this is a good bipartisan compromise. If this bill is enacted into law, it will immediately ensure that every year, thousands of people are treated more fairly in our criminal justice system. I hope my colleagues, when they hear about our efforts on this, will join in supporting our efforts to deal with this disparity.

I ask unanimous consent to have printed in the RECORD a statement by Wade Henderson, president of The Leadership Conference, in support of the bill that is currently being considered by the Senate.

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

Wade Henderson, president of The Leadership Conference on Civil and Human Rights, issued the following statement regarding the Senate Judiciary Committee's vote on March 11 to amend and pass The Fair Sentencing Act (S. 1789).

For nearly two decades, The Leadership Conference has fought for the complete elimination of the unjustified and racially discriminatory disparity in sentencing between the crack and powder forms of cocaine. This disparity subverts justice, undermines confidence in our criminal justice system, and wreaks havoc on the African-American community. We strongly supported Senator Dick Durbin's bill, S. 1789, which would have completely eliminated the disparity.

While we are disappointed that the goal of complete elimination has not yet been accomplished and that discrimination will remain, The Leadership Conference considers the Senate Judiciary Committee's unanimous passage of the amended version of S. 1789, which reduces the disparity from a ratio of 100-to-1 to 18-to-1, to be a step forward.

This legislation represents progress but not the end of the fight. As Dr. King said, An unjust law is a code that is out of harmony with the moral law. We are committed to redoubling our efforts to obtain complete elimination of this sentencing disparity—the only fair and just solution.

We applaud Senator Durbin for his persistence in seeking real reform, along with Chairman Patrick Leahy and Senator Jeff Sessions for their steadfast commitment to addressing this issue. We appreciate the contributions of Senator Lindsey Graham toward finding a resolution. We want to note Senator Ben Cardin's continued commitment to the complete elimination of the disparity and Senator Russ Feingold's courageous vote against the amendment. We also want to recognize the leadership of Representative Bobby Scott and the Congressional Black Caucus, who have served as the conscience of Congress on this issue.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 316, S. 1789.

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

The legislative clerk read as follows:

A bill (S. 1789) to restore fairness to Federal cocaine sentencing.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment

to strike all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fair Sentencing Act of 2010".

**SEC. 2. COCAINE SENTENCING DISPARITY REDUCTION.**

(a) CSA.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in subparagraph (A)(iii), by striking "50 grams" and inserting "280 grams"; and  
(2) in subparagraph (B)(iii), by striking "5 grams" and inserting "28 grams".

(b) IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (1)(C), by striking "50 grams" and inserting "280 grams"; and  
(2) in paragraph (2)(C), by striking "5 grams" and inserting "28 grams".

**SEC. 3. ELIMINATION OF MANDATORY MINIMUM SENTENCE FOR SIMPLE POSSESSION.**

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by striking the sentence beginning "Notwithstanding the preceding sentence,".

**SEC. 4. INCREASED PENALTIES FOR MAJOR DRUG TRAFFICKERS.**

(a) INCREASED PENALTIES FOR MANUFACTURE, DISTRIBUTION, DISPENSATION, OR POSSESSION WITH INTENT TO MANUFACTURE, DISTRIBUTE, OR DISPENSE.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(1) in subparagraph (A), by striking "\$4,000,000", "\$10,000,000", "\$8,000,000", and "\$20,000,000" and inserting "\$10,000,000", "\$50,000,000", "\$20,000,000", and "\$75,000,000", respectively; and

(2) in subparagraph (B), by striking "\$2,000,000", "\$5,000,000", "\$4,000,000", and "\$10,000,000" and inserting "\$5,000,000", "\$25,000,000", "\$8,000,000", and "\$50,000,000", respectively.

(b) INCREASED PENALTIES FOR IMPORTATION AND EXPORTATION.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (1), by striking "\$4,000,000", "\$10,000,000", "\$8,000,000", and "\$20,000,000" and inserting "\$10,000,000", "\$50,000,000", "\$20,000,000", and "\$75,000,000", respectively; and

(2) in paragraph (2), by striking "\$2,000,000", "\$5,000,000", "\$4,000,000", and "\$10,000,000" and inserting "\$5,000,000", "\$25,000,000", "\$8,000,000", and "\$50,000,000", respectively.

**SEC. 5. ENHANCEMENTS FOR ACTS OF VIOLENCE DURING THE COURSE OF A DRUG TRAFFICKING OFFENSE.**

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines to ensure that the guidelines provide an additional penalty increase of at least 2 offense levels if the defendant used violence, made a credible threat to use violence, or directed the use of violence during a drug trafficking offense.

**SEC. 6. INCREASED EMPHASIS ON DEFENDANT'S ROLE AND CERTAIN AGGRAVATING FACTORS.**

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines to ensure an additional increase of at least 2 offense levels if—

(1) the defendant bribed, or attempted to bribe, a Federal, State, or local law enforcement official in connection with a drug trafficking offense;

(2) the defendant maintained an establishment for the manufacture or distribution of a controlled substance, as generally described in section 416 of the Controlled Substances Act (21 U.S.C. 856); or

(3)(A) the defendant is an organizer, leader, manager, or supervisor of drug trafficking activity subject to an aggravating role enhancement under the guidelines; and

(B) the offense involved 1 or more of the following super-aggravating factors:

(i) The defendant—

(I) used another person to purchase, sell, transport, or store controlled substances;

(II) used impulse, fear, friendship, affection, or some combination thereof to involve such person in the offense; and

(III) such person had a minimum knowledge of the illegal enterprise and was to receive little or no compensation from the illegal transaction.

(ii) The defendant—

(I) knowingly distributed a controlled substance to a person under the age of 18 years, a person over the age of 64 years, or a pregnant individual;

(II) knowingly involved a person under the age of 18 years, a person over the age of 64 years, or a pregnant individual in drug trafficking;

(III) knowingly distributed a controlled substance to an individual who was unusually vulnerable due to physical or mental condition, or who was particularly susceptible to criminal conduct; or

(IV) knowingly involved an individual who was unusually vulnerable due to physical or mental condition, or who was particularly susceptible to criminal conduct, in the offense.

(iii) The defendant was involved in the importation into the United States of a controlled substance.

(iv) The defendant engaged in witness intimidation, tampered with or destroyed evidence, or otherwise obstructed justice in connection with the investigation or prosecution of the offense.

(v) The defendant committed the drug trafficking offense as part of a pattern of criminal conduct engaged in as a livelihood.

**SEC. 7. INCREASED EMPHASIS ON DEFENDANT'S ROLE AND CERTAIN MITIGATING FACTORS.**

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and policy statements to ensure that—

(1) if the defendant is subject to a minimal role adjustment under the guidelines, the base offense level for the defendant based solely on drug quantity shall not exceed level 32; and

(2) there is an additional reduction of 2 offense levels if the defendant—

(A) otherwise qualifies for a minimal role adjustment under the guidelines and had a minimum knowledge of the illegal enterprise;

(B) was to receive no monetary compensation from the illegal transaction; and

(C) was motivated by an intimate or familial relationship or by threats or fear when the defendant was otherwise unlikely to commit such an offense.

**SEC. 8. EMERGENCY AUTHORITY FOR UNITED STATES SENTENCING COMMISSION.**

The United States Sentencing Commission shall—

(1) promulgate the guidelines, policy statements, or amendments provided for in this Act as soon as practicable, and in any event not later than 90 days after the date of enactment of this Act, in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note), as though the authority under that Act had not expired; and

(2) pursuant to the emergency authority provided under paragraph (1), make such conforming amendments to the Federal sentencing guidelines as the Commission determines necessary to achieve consistency with other guideline provisions and applicable law.

**SEC. 9. REPORT ON EFFECTIVENESS OF DRUG COURTS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Com-

troller General of the United States shall submit to Congress a report analyzing the effectiveness of drug court programs receiving funds under the drug court grant program under part EE of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797–u et seq.).

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) assess the efforts of the Department of Justice to collect data on the performance of federally funded drug courts;

(2) address the effect of drug courts on recidivism and substance abuse rates;

(3) address any cost benefits resulting from the use of drug courts as alternatives to incarceration;

(4) assess the response of the Department of Justice to previous recommendations made by the Comptroller General regarding drug court programs; and

(5) make recommendations concerning the performance, impact, and cost-effectiveness of federally funded drug court programs.

**SEC. 10. UNITED STATES SENTENCING COMMISSION REPORT ON IMPACT OF CHANGES TO FEDERAL COCAINE SENTENCING LAW.**

Not later than 5 years after the date of enactment of this Act, the United States Sentencing Commission, pursuant to the authority under sections 994 and 995 of title 28, United States Code, and the responsibility of the United States Sentencing Commission to advise Congress on sentencing policy under section 995(a)(20) of title 28, United States Code, shall study and submit to Congress a report regarding the impact of the changes in Federal sentencing law under this Act and the amendments made by this Act.

Mr. LEAHY. Mr. President, today, I join Senators from both sides of the aisle to pass the historic and bipartisan Fair Sentencing Act.

The racial imbalance that has resulted from the cocaine sentencing disparity disparages the Constitution's promise of equal treatment for all Americans. Although this bill is not perfect, its passage marks a significant step forward in making our drug laws fairer and more rational. Despite my belief that parity was the better policy, I have joined with Senator DURBIN and support the progress represented by his compromise with Senator SESSIONS. It reduces the disparities that leave some in jail for years while their more privileged counterparts go home after relatively brief sentences. Today, that compromise means we are one step closer to fixing this decades-old injustice. I commend Senators DURBIN, SESSIONS, GRAHAM, COBURN, and HATCH for negotiating the compromise that allowed this important piece of legislation to pass the Senate Judiciary Committee by a unanimous vote. As chairman, I was able to report on behalf of the Senate Judiciary Committee the first measure we have ever been able to approve that begins to undo the unjust sentencing disparity.

For more than 20 years, our Nation has used a Federal cocaine sentencing policy that treats "crack" offenders 100 times more harshly than other cocaine offenders, without a legitimate basis for the difference. We know that there is little or no pharmacological distinction between crack and powder cocaine, yet the resulting punishments for these offenses is radically different

and unjust. This policy is wrong and unfair, and it has needlessly swelled our prisons, wasting precious Federal resources.

These disproportionate punishments have had a disparate impact on minority communities. This is unjust and runs contrary to our fundamental principles of equal justice under law. According to the latest statistics of the independent and nonpartisan United States Sentencing Commission, African Americans continue to make up the large majority of Federal crack cocaine convictions, accounting for 80 percent of all Federal crack cocaine offenses, while they represent a much smaller fraction of those who use the drug. In a letter to our committee, John Payton, the president of the NAACP Legal Defense Fund, called this disparity "one of the most notorious symbols of racial discrimination in the modern criminal justice system."

These disparate penalties, which Congress created in the mid-1980s, have failed to address basic concerns. The primary goal underlying the crack sentence structure was to punish the major traffickers and drug kingpins who were bringing crack into our neighborhoods. But the law has not been used to go after the most serious offenders. In fact, just the opposite has happened. The Sentencing Commission has reported for many years that more than half of Federal crack cocaine offenders are low-level street dealers and users, not the major traffickers Congress intended to target.

The Fair Sentencing Act of 2009 returns the focus of Federal cocaine sentencing policy to drug kingpins, rather than street level dealers, and eliminates the mandatory minimum sentence for possession of crack cocaine. The 5-year mandatory minimum sentence penalty for simple possession of crack is unique under Federal law. There is no other mandatory minimum for mere simple possession of a commonly abused drug.

This bill does not legalize drugs, nor does it eliminate harsh sentences. In fact, this bill toughens some penalties. It increase fines for major drug traffickers and provides sentencing enhancements for acts of violence committed during the course of a drug trafficking offense. But this bill also helps to ensure that our system will no longer affect many minority and urban communities more harshly than offenders who use drugs in the suburbs and corporate offices. That inequality has reduced trust in law enforcement and cooperation with police, which makes us all less safe.

American justice is about fairness for each individual. To have faith in our system, Americans must have confidence that the laws of this country, including our drug laws, are fair and administered fairly. We must be smarter in our Federal drug policy. Law enforcement has been and continues to be a central part of our efforts against illegal drugs, but we must also find

meaningful, community-based solutions which enable people to feel they are being treated fairly. I look forward to working with Chief Kerlikowske, the director of the President's Office of National Drug Control Policy, to develop and deploy such a strategy.

Since 1995, the United States Sentencing Commission has issued report after report calling on Congress to address this unfair sentencing disparity. We would not be making the progress we are today without the leadership of the United States Sentencing Commission. I thank them and their chairman, Judge William Sessions.

I thank the U.S. Department of Justice for the testimony of Assistant Attorney General Lanny Breuer at our hearing on this matter last year. Attorney General Eric Holder also reminded us that "the stakes are simply too high to let reform in this area wait any longer." I agree. It is time for the Senate and House to act.

After more than 20 years, the Senate has finally acted on legislation to correct the crack-powder disparity and the harm to public confidence in our justice system it created. Although this bill is not perfect and it is not the bill we introduced in order to correct these inequalities, I believe the Fair Sentencing Act moves us one step closer to reaching the important goal of equal justice for all. I urge the House to act quickly so that the President can sign this historic legislation into law.

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1789), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

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

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

#### UNANIMOUS CONSENT AGREEMENT—H.R. 1586

Mr. DURBIN. Mr. President, I ask unanimous consent that on Thursday, March 18, after the Senate resumes consideration of H.R. 1586, the Senate then debate concurrently the Sessions-McCaskill amendment No. 3453 and the Pryor amendment No. 3548; that the

amendments be debated concurrently until 11:30 a.m., with the time equally divided and controlled between Senators SESSIONS and PRYOR or their designees, with no amendments in order prior to the vote; that the amendments then be set aside until 2 p.m., and at 2 p.m., the Senate proceed to vote in relation to the amendments, with the Sessions-McCaskill amendment voted first in the sequence; that prior to each vote, there be 2 minutes of debate, equally divided and controlled in the usual form.

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

#### ORDERS FOR THURSDAY, MARCH 18, 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, March 18; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of H.R. 1586, as provided for under the previous order.

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

#### PROGRAM

Mr. DURBIN. Mr. President, tomorrow we will resume consideration of the FAA reauthorization legislation. Senators should expect at least two votes to begin at 2 p.m.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Thursday, March 18, 2010, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### THE JUDICIARY

LEONARD PHILIP STARK, OF DELAWARE, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE, VICE KENT A. JORDAN, ELEVATED.

AMY TOTENBERG, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE JACK T. CAMP, JR., RETIRED.

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. EDWARD A. RICE, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COLONEL DAVID W. ALLVIN  
 COLONEL BALAN R. AYYAR  
 COLONEL THOMAS W. BERGESON  
 COLONEL JACK L. BRIGGS II  
 COLONEL JAMES S. BROWNE  
 COLONEL ARNOLD W. BUNCH, JR.  
 COLONEL THERESA C. CARTER  
 COLONEL SCOTT L. DENNIS  
 COLONEL JOHN W. DOUCETTE  
 COLONEL SANDRA E. FINAN  
 COLONEL DONALD S. GEORGE  
 COLONEL JERRY D. HARRIS, JR.  
 COLONEL KEVIN J. JACOBSEN  
 COLONEL SCOTT W. JANSSEN  
 COLONEL RICHARD A. KLUMPP, JR.  
 COLONEL LESLIE A. KODLICK  
 COLONEL GREGORY J. LENGYEL  
 COLONEL JAMES F. MARTIN, JR.  
 COLONEL ROBERT D. MCMURRY, JR.  
 COLONEL EDWARD M. MINAHAN  
 COLONEL JON A. NORMAN  
 COLONEL JAMES N. POST III  
 COLONEL STEVEN M. SHEPRO  
 COLONEL JAY B. SILVERIA

COLONEL DAVID D. THOMPSON  
 COLONEL WILLIAM J. THORNTON  
 COLONEL KENNETH E. TODOROV  
 COLONEL LINDA R. URRUTIA-VARHALL  
 COLONEL BURKE E. WILSON

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. DANIEL P. BOLGER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. DUANE D. THIESSEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. REX C. MCMILLIAN

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. DAVID J. VENLET

CONFIRMATION

Executive nomination confirmed by the Senate, Wednesday, March 17, 2010:

THE JUDICIARY

O. ROGERIEE THOMPSON, OF RHODE ISLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT.